ROMANÆ HISTORIÆ ANTHOLOGIA RECOGNITA ET AUCTA.

AN Englisſh Expoſition OF THE ROMAN ANTIQUITIES

Wherein many *Roman* and *Eng*[illegible] Offices are parralleld, and divers obſcure phraſes explained.

For the uſe of Abingdon *Schoo*[illegible]

Newly reviſed and inlarged by the Author.

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VIRO

COLENDISSIMO

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Decano Ornatissimo.

Ευδαιμονέστα τα διάγειν.

BODLEIANA BIBLIOTHECA

Vir Ornatissime,

NON liberi quàm libri pluribus exponi periculis solent, cum primùm prodeant in lucem: utrisque pariter opus est tutelari aliquo numine obstetricante. Hoc olim sensitanthologia hæc nostra primùm edita: idem sentit eadem in hodierna duarum sectionum, & capitulorum aliquot superfœtatione. Nacta igiter secundas suas cogitationes te ambit Patronum, qui facem aliquam mihi in his antiquitatibus obambulanti prætulisti, & quem multùm fuisse instudiis meis promovendis, palam & sub Dio prædico, videbis

me aliquoties alium à doctissimis viris, & ab illorum sententiis alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Aristoteles, (nolo ego istiusmodi insaniam infanire, utcunque splendidam & *autoritativam:*) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rarô admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adversario aliquo eximio commissâ, gloriolæ nescio quos fumos sibi pollicentur. Hæc scribendi ratio si tibi placeat, alios non moror, quibus si simplex veritas non arrisset, cum magnis nominibus deviare per me licebit. Vale, & meas Musas, ut soleas, ama; ille, quod jam facient, te colent semper, & omni obsequio prosequenter. *Datum Abingdoniæ* 14. *Cal. Decemb. An.* χριστογονίας. 1622.

Dignitati tuæ
multiplici nexû mancipatus,

THO. GOODWIN.

BENEVOLO LECTORI

Ἐυτρέπελιν, Ἐυκένην.

MIRARIS forsan & redarguis, quòd nondum destitum ab his elementaribus; quasi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his previis studiis senium contrahere. Qui sic sentis, nec me satis noris, nec ludi literarii (pone leno cinium niminis, moletrinæ dices,) iniquas leges, aut miserias quotidianas & omnigenas. Sentio ego me in pistrinum damnatum, & cogita tu hanc Anthologiam è pistrino prodeuntem. Si minùs placeat, illud dabis purorum circumstrepentium susurris, inter quos nata est: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc studia, quæ aliàs jamdudum jussissam suas sibi res habere. Sic me amet Theologia, sacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ accessere, non vulgaria, aut obvia, nec quæ vulgus hominum aut docuit, aut didicit. *Vale.*

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A short Table shewing the Argument
of every Book and Section.

THE
Roman Antiquities
Expounded in ENGLISH.

LIB. I. SECT. I.

Of the chief parts of the City.

CAP. I.

De modo condendarum, dilatandarumq; Urbium.

BEfore we handle the deſcription of the particular places in the Roman City, it will not be amiſs to premiſe ſomewhat concerning the ancient manner of building and razing Cities. In the building of Cities, the Founders thereof did uſually conſult with their Gods in their *Augurial* obſervations; and (*a*) this courſe was obſerved by *Romulus* himſelf, in the firſt foundation of *Rome*: After their *Augurial* obſervations, they marked out the place where the wall of the City ſhould be built, by plowing up the ground; and becauſe they left that ſpace of ground unplowed, lightly lifting the plough over it, where they appointed

(*a*) M. Tullius lib. 1. de divinat.

the gate of the City, thence *á portando*, from carrying and lifting the plough, they called the gate *Portæ*. This cuſtome is fully deſcribed by [b] *Cato*: *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi aràſſet, murum faciebat, ubi portam volebat eſſe, aratrum tollebat & portam vocabat.* *Virgil* alſo alludeth unto it,

Interea Æneas urbem deſignat aratro.

[b] M. Cato in fragm.

The manner hereof was, that he who held the plough, did caſt up the skirt of his gown on the right ſhoulder and gird himſelf about, either becauſe this was the uſuall habit of ſuch who performed holy rites; (in the number of which this preſent action was reputed) or that he might the more readily addreſs himſelf to the buſineſs; or laſtly, that he might ſymbolically by that pacifical habit intimate, that the flouriſhing eſtate of a City is not ſo much preſerved by war, as by peace. Hence *Ovid lib. 4. Faſtorum.*

Ipſe tenens ſtivam, deſignat mœnia ſulco,
Alba inguin nivco cum bove vacca tulit.

[c] Cœl. Rhod. antiq. lib 25. cap. 5

The [c] like cuſtome was uſed alſo in the razing or demoliſhing of Cities, when they had been vanquiſhed by the enemies: which obſervation giveth light to that of *Horace*, *lib.* 1. *Od.* 16.

---urbibus ultima
Stet ère cauſa, cum perirent
Funditus, imprimeretq; muris
Hoſtile aratrum exercitus inſolens.

CAP. 2.

De monte Palatino.

[d] Vid. Anton. Conſtantium in Ovid. Faſt. lib. 1.

TOuching the name of *Rome*, from what occaſion the City ſhould be ſo denominated, divers authors conceit dverſly [d] Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, & was then called by the

the Latines, *Valentia*, which was a name of ſtrength, whence *Evander* coming from *Italy*, called it *Roma* from ῥώμη. *Robur*. Others ſay it was ſo called from *Aſcanius* his daughter, whoſe name was *Roma*. But it is agreed upon by moſt writers, that the Founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, becauſe the diminitive, *Romula*, might ominate leſs proſperity thereunto. *e* Some ſay, that they built it in form of a quadrangle, upon one onely hill, called *Mons Palatinus*. *f* Others ſay, that *Fabius* left *Rome* as it was firſt built, with the fields thereof, painted in the form of a bow, the River *Tiber* being the ſtring thereof. Upon this *Palatine* hill was always the ſeat of the Roman Empire, which from the hill took the denomination of a Palace: & hence all *g* ſtately buildings which we call Palaces, took their name *Palatia*. This hill had his firſt appellation *h Balatinus á Balando*, from the bellowing of cattel paſturing there in former times, and afterwards the firſt letter being changed, it was called *Palatinus*: by the figure ἀντισοιχον. *Virgil* ſeemeth to be of opinion that the hill was called *Palatinus* by *Evander*, in remembrance of his grandfather, whoſe name was *Pallas*, according to that,

e Roſin. antiq. lib. 1. cap 2.
f Sig. de jur. Rom. l. 1, c. 2.
g Roſin ant. lib. 1. cap. 4.
h Vid. Servium in Æneid. lib. 8.

-----Poſuere in montibus urbem,
Palantis proavide nomine Palanteum. Virg. Æncid. l. 8.

In proceſs of time ſix other hills by ſeveral Kings of *Rome* were added; whereby the City, and the *Pomerium*, that is, the territories of the City were enlarged, and *Rome* called *Urbs ſepti-collis, id eſt*, the City upon ſeven hills.

Sed quæ de ſeptem totum circumſpicit orbem
Montibus, imperii Roma deumq; locus. Ovid. Triſt. lib. 1. *Eleg.* 4.

Upon this *Palatine* hill alſo ſtood the *Aſylum*, or ſanctuary of refuge, which *Romulus* opened *i* in imitation of *Cadmus*, who at the building of *Thebes* was ſaid to have opened a ſanctuary of refuge, whither whatſoever malefactor could eſcape, were he bond or free, he was not to be puniſhed. It

i Alex. Genialier. l. 3. c. 2. ubi plura lectione digna de Aſylis.

was much like unto a cuſtom of the people in the City *Croton*, who flying unto the altars of their Gods, obtained the forgiveneſs of faults not voluntarily committed. Whence theſe two phraſes are expounded alike, *Ad te tanquam ad Aſylum*, and *Ad te tanquam ad aram confugimus, id eſt*, we fly unto thee as our only refuge.

Cap. 3.

De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill [k] from the heathenish God *Saturne*, who vouchſafed to undertake the protection of that place. It was named the *Tarpeian* hill [l] from *Tarpeia* one of the Veſtall Nuns, daughter to the chief keeper of the Capitoll, (this hill being the Caſtle of defence for the whole Town) for this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her treaſon. Now the enemies when they were admitted in, did caſt not their bracelets alone but their bucklers alſo upon her, through the weight whereof ſhee was preſſed to death: upon which occaſion the whole hill was afterwards called the *Tarpeian* mount; but more principally a certain rock of that hill called *Tarpeia rupes*, from whence malefactors were ſundry times tumbled headlong. The ſame was likewiſe called the *Capitoll*, becauſe when the foundation of a certain Temple, built in the honour of *Jupiter*, was laid; a mans head, full freſh and lively, as if it had been lately buried, [m] yea hot blood iſſuing out of it, was found there. [n] *Arnobius* ſaith, that the name of this man being alive was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

1 [k] Roſin ant. lib. 1. c. 5.

2 [l] Plutarch in Romulo.

3 [m] Dion. Halicar lib. 4. [n] Lipſius de magnitud Rom. c. 5.

Cap.

Cap. 4.

De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in latine *Curetes*, came and inhabited there, (truce being made between the *Romanes* and the *Sabines*:) though some would therefore have it named *Quirinalis*, because there was a Temple erected in the honour of *Romulus*, called also *Quirinus*. It was called in the time of the Emperours, *mons Caballus*, that is, the horse hill, taking its denomination from two marble statues of *Alexander* taming his horse *Bucephalus*, which statues *Constantine* the Emperour brought to *Rome*, and placed them in the midst of certain bathes, which he made upon this hill. There do appear in this hill three risings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*, All this may be collected out of [o] *Rosinus*.

o Antiq. Rom. l. 1 c 6.

Cap. 5.

De monte Celio.

THis hill hath his name from a certain [p] Captain of *Hetruria*, which assisted *Romulus* against the *Sabines*. On this hill, King *Tullus Hostilius* erected stately edifices, which for a time, served as his Palace: but afterward they became the chief Council-house whither the *Senatours* assembled themselves for the determining of State matters: and because this *Curia* did far exceed all others, therefore Authors many times use this word [q] *Curia* simply without any adjunction, to signifie *Curiam Hostiliam*, as if there were no other. It much resembleth our Privy Council Chamber,

p Alex. Gen. dier. l. 1. c. 11.

q Alex. Gen. dier. l. 1. c. 6.

Chamber, in reſpect that none might ſit there, but only *Senators*; whereas in the Court houſe, which *Pompey* built (being therefore called *Curia Pompeia*) r other City Magiſtrates were admitted amongſt the *Senators*: and in *Curia Julia*, *id eſt*, the Court-houſe which *Julius* made, were examined ſ forreign matters, as Embaſſages: but in *Curia Hoſtiliâ* domeſticall matters only were treated of, and that only by the *Senators*. t At this preſent time, this hill is beautified with many Chriſtian Churches, as the Churches of S. *Stephen*, S. *Paul*, & S. *Iohn*, our Saviours Hoſpital, *&c.* u It was alſo called *Mons Querculanus*, from the abundance of Oaks growing there.

r Roſin antiq. li. 7. 5.

ſ Roſin. ibid.

t Munſter in ſua Coſmog. lib. 2. cap. 9.

u Alex. Gendier. lib. 6. c. 11.

Cap. 6.

De monte Eſquilino.

THis hill was ſo named *quaſi* x *excubinus*, *ab excubiis*, *id eſt*, from the night watching, which *Romulus* did undertake upon that, ſomewhat diſtruſting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named, *Ciſpius*, *Oppius*, *and Septimeus*.

x Roſin. ant. lib. 1. cap 8.

Cap. 7.

De monte Aventino.

THe *Aventine* mount, took his name a from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this hill ſtood *Hercules* his Altar, and certain Temples conſecrated to *Juno*, *Diana*, *Minerva Lucina*, and *Murcia*, *id eſt*, *Venus*: whence the hill hath ſometimes been called *Dia a* her hill, and *Mons Murcius*. Upon b this Mount, *Remus* would have built *Rome*, and therefore it was called *Remonius mons*: but ſince it hath been called *Mons Rig-*

a Alex. Gendier, li. 9. c. 11.

b Plutarch in Romulo.

Rignarius, as it appeareth by *Plutarch* in the ſame place. It had moreover the name of the *Holy Mount*, being called in Latine *Mons ſacer*.

Cap. 8.

De monte Viminali.

BEcauſe of the abundance of wicker twigs, which did grow upon the hill, it was called *Mons Viminalis*, *Vimen* ſignifying a twig or Ozier. I am not ignorant that, ſome would have this hill to be named *Viminalis*, from *Jupiter Vimineus*, whereas *Jupiter* himſelf was named *Vimineus* from this hill, becauſe he had here many alters erected in the honour of them. Both this hill, and *Jupiter*, were called *Fagutales*, from *ſylva fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. antiq. lib. 1. cap. 9.*

Cap. 9.

De tribus collibus adjectis

THree[c] other Hills there were, which in proceſs of time were added unto the City, which partly becauſe they were not included within the *Pomærium* ſo ſoon as the other, but chiefly becauſe they were not of ſuch note, therefore *Rome* retained the name *Septi-collis*. The firſt of thoſe hills was called *Collis Hortulorum*, *id eſt*, the hill of Gardens, ſo termed becauſe of the many Gardens neer adjoyning. [d] Here was the *Cirque*, or the ſhew place of the ſtrumpet *Flora*, which made the people of *Rome* heir to thoſe goods which ſhe had gotten by proſtituting her body to young Gentlemen, leaving alſo a certain ſum of money to procure a celebration of her birth-day: which becauſe of her infamie, the people ſhaming to do, they feigned her to be the

[c] Roſin. ant. lib. 1. cap. 11.

[d] Barthol. Lomus in Verrin. Orac. 7.

the Goddeſs of flowers, and that ſhe muſt be firſt appeaſed by ſports & plaies, performed in the honour of her, before the trees and fruits of the earth would proſper; [e] and that they might gain the better credit unto this their table they add farther, that ſhe was once called *Chloris*, and was married unto *Zephyrus*, from whom by way of dowry ſhe received power over the flowers The ſecond was called *Ianiculus*, from *Ianus* that two-faced God: who as writers teſtifie, was there buried. It did lie beyond the river *Tiber*, and hath now changed its name, being called from the yellow ſands, *Mons aureus*, and through negligence of the Printer, *Montorius*, *id eſt*, the Golden Mountain. The third was famous for the many divinations, and prophecies uttered upon it, and thence was it named *Vaticanus* from *Vaticinium*, a foretelling [f] It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

[e] Lactant. de fal. relig. lib. 1. cap. 20.

[f] Munſter in ſua Cosmog. lib. 2. cap. 8.

CAP. 10.

De Foro Romano.

Forum hath divers acceptions: ſometimes it is taken for a place of negotiation, or merchandizing, which we call a Market-place: and being taken in this ſenſe, it hath commonly ſome adjective joyned with it, as *Forum boarium*, the beaſt-market, *Forum piſcarium*, the fiſh-market; *Olitorium Forum*, the herb-market: other times it is taken for any place, whereſoever the chief governour of a Province doth convocate his people together, there to give judgement according to the courſe in law: whence a man is ſaid, *Forum agere*, [g] when he keeps the Aſſizes, and *Forum indicere*, when he appointed the place where the Aſſizes ſhall be kept. Thirdly, it is taken for a place, where controverſies in Law are judicially determined, and Orations are had unto the people. At firſt, of this ſort were only three, *Romanum*, *Juli-*

[g] Huberus in Cic. lib. 3. ep. fam. 6.

ums

um, & *Augustum*, as is clearly evidenced by that of *Martial*,

Atque erit in triplici par mihi nemo foro.

Afterward the number was increased to six distinct *Forums*: One called *Forum Julium*, because it was built by *Julius Cæsar*. A second was added by *Octavius Augustus*, called therefore *Augusti Forum*. The third *Forum* was founded by *Domitian* the Emperour: but, by reason of his sudden death, *Nerva* had the finishing thereof. It had the name of *Forum Transitorium*, the transitory *Forum*; because there was *Transitus*, *id est*, a way or passage through it into three several market-places. The same *Martial* calleth it sometimes [b] *Forum Palladium*; because in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour *Trajanus*, wherein was erected a stately Columne or Pillar 140 Cubits high, having all the noble exploits performed by *Trajanus* engraven in it. Another was called *Salustii forum*, because *Salust* bought it with divers Gardens adjoyning, which since have been called *horti Salustini*. The last *Forum*, which indeed was first built, and in all respects excelled the rest, was called *Forum Romanum*, and *Forum vetus*, or by way of excellency the *Forum*, as if there were no other *Forum*: where we must understand, that as often as *Forum* is used in this latter sence, namely for a pleading place, it is so used figuratively, by the figure *Synechdoche*: for in truth, the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely that Chappell or great building, which they called *Rostra*. [i] Round about this *Forum Romanum*, were built certain Tradsemens shops, which they termed *Tabernæ*, and also other stately buildings, called *Basilicæ Pauli*. Here was the *Comitium*, or Hall of justice; the *Rostra*, *id est*, the Orators Pulpit; *Saturnes* Sanctuary, or the common treasure-house; and *Castors* Temple: of all which in their order.

[b] Lipsius de magnitud Rom. l. 3 c. 7

[i] Hen. Salmuth in Pancirol. lib. rerum deperdit. cap. de basil. & taber.

Cap. II.

De Baſilicis.

Baſilicæ were upper buildings, of great ſtate and much coſt, being ſupported with *Pilæ*, *id eſt*, flat ſided pillars; and having underneath them walkes, much reſembling our Cloyſters, ſaying that the *Intercolumnia*, or ſpace between the pillars, lay open unto the very ground. That they were upper buildings, may be collected by the cuſtome of many men, which were wont to walke under theſe Baſilicall buildings, and therefore were called *Subbaſilicani* by *Plautus*. The uſe of theſe were principally for the *k* Judges to ſit in judgment: but in their abſence it was lawful for Merchants to deal in their buſineſſes. Thoſe of chief note were three, thus named, *Pauli*, *Porcia* and *Julia*.

k Sigon. de judiciis lib. 1. cap. 28.

Cap. 12.

De Comitiis.

Comitium l was a part of the *Forum Romanum*, being a great large hall of juſtice, which for long time was open at the top, having no covering, and for that reaſon the Aſſemblies were often diſſolved in rainy or unſeaſonable weather. In it ſtood the *Tribunall*, being a place erected up on high in form of our Pulpits, but many degrees larger, and in the midſt thereof, the *Sella Curulis*, *id eſt*, the Ivory Chair, from whence the chief Magiſtrate adminiſtred juſtice; other inferior Magiſtrates ſitting on benches on each ſide, which were called *Subſellia*, becauſe they were lower then the Tribunal. Thoſe which ſate upon theſe benches had power *cognoſcere*, but not *pronunciare*; much like to our Juſtices at Aſſiſes, which may examine or inform againſt a male-

l Sig. de jud. lib. 1, cap. 7.

malefactor, but not condemn him. Where we may obſerve the difference between *Comitium*, ſignifying ſuch an edifice or building, and *Comitia*, ſignifying the *Romane* aſſemblies: both being called *á coeundo*. This Hall was many times called by the name of *Puteal Libonis*. The reaſon of which name is rendred thus by [m] ſome; that in this *Comitium*, *Attius Navius* did once with a razor cut in two a whetſtone, and in memory thereof, his ſtatue was erected, with an hat upon his head, for *Puteal* properly doth ſignify the cover of a well, but in a large acception, it ſignifieth a broad brimmed hat, as *Caelius Rhodiginus* noteth in the ſame place. [n] *Cicero* toucheth this: *Cotem illam, & novaculam defoſſam in comitio, ſupraque impoſitum Puteal accepimus.* But why it ſhould be called *Puteal Libonis*, is yet doubtfull, except happily *Libo* was the firſt erector of this ſtatue. That it was a common Court, and known place of juſtice, *Horace* witneſſeth, *Roſcius orabat, ſibi adeſſes ad puteal cras.*

m Cœl. Rhod. l. 10. cap. 17.

n Cic. de divinat.

Cap. 13.

De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly faire Edifice, in manner of the body of a Cathedral Church: In it ſtood an Orators Pulpit, deckt and beautified with the ſtemmes of many Ships, which the *Romans* got from the people of *Antium*, in a memorable battail upon the Sea: And [o] hence from thoſe Ship-beaks, called in Latine *Roſtra*, hath this place taken its name. It may be Engliſhed, the great Oratory, or place of Common-plea.

o Huberr. in Cic. ep. lib. 1. ep. fam. 1.

Cap. 14.

De Templo Caſtoris.

ANother part of the *Forum* was a Sanctuary built in the honour of *Caſtor* and *Pollux*: the reaſon thereof was becauſe they appeared unto the *Romans* in the Latine war, in the likeneſs of two Angels ſent from Heaven to lead the *Romane* army, and to aſſiſt the Romans againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field, none knowing how, and even in the ſame moment they appeared upon their ſweating Horſes unto the *Romane* Citizens in the *Forum*, who taking them for ſouldiers, demanded what news they brought home from the camp: they replied that the *Romanes* were conquerors: which news being delivered, they ſuddenly vaniſhed and were ſeen no more. Upon this occaſion did *A. Poſtdumius*, being at that time *Dictator*, build a Temple, in that place of the *Forum* where they were ſeen, in honour of them both: Although in the after ages, it had the name onely of *Caſtors* Temple. Whence aroſe the jeſt of *M. Bibulus*, againſt his fellow Conſul *Julius Cæſar*, ſaying, [p] it fared with him, as it did with *Pollux*, *id eſt*, as this Temple which was erected in the honour of both the brethren, carried the name only of *Caſtors* Temple; ſo the great expences in exhibiting ſhews in the time of their Conſulſhip, though they were deeper on *Bibulus* his ſide, yet *Cæſar* carryed away all the thanks and credit. Inſomuch that the people being wont to ſubſcribe the names of both Conſuls at the end of their Deeds and Charters, for a remembrance of the year; that year they wrot, ſuch a thing done, not *Biblius* and *Cæſar*, but *Julius* and *Cæſar* being Conſuls.

[p] Suet. in Julio Cæſar.

Cap.

Cap. 15

De Æde Saturni.

Saturnes Sanctuary [q] was the common treasure-house wherein the subsidie money which the Commons paid unto the Treasurers called *Quæstores*, was to be laid up: whereof divers conjecture diverſly. *Alexand. Neop.* [r] saith, that *Saturn* found out the use of brazen money: and therefore this Temple might be thought the fitteſt place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place did allude to the integrity of time, wherein *Saturn* reigned, being the Worlds golden Age. But [s] the moſt received opinion, is the ſtrength of the place, whereby it was the ſafer from theeves. The Temple by reaſon of the use it was put unto, was called *ærarium*, from *æs*, *id eſt*, *Braſſe*: which name now is common to all treaſure-houſes: for that the firſt money uſed by the *Romans* was of that mettal, until the year of *Rome* 485. (as *Pliny* witneſſeth *lib.* 3, *cap.* 33.) [t] Some are of opinion, that before the use of Braſſe, they made money of Leather: whence *Numa Pompilius* is ſaid to have given Leather money in a dole unto the people. Touching their order obſerved in the Treaſury, we muſt underſtand that their care in providing againſt ſudden dangers was ſuch, that they laid aſide the twentieth part of their receipts, which they [u] called *aurum viceſimarium*, *Inceniſimarium*, and *Cimiliarchium*, into an inner Chamber, or more ſacred room, named in latine *ærarium ſanctius*. [x] We may read alſo of a third treaſury, called *Ærarium militare*, wherein *Auguſtus* had appointed that the twentieth part of certain Legacies ſhould be laid up to defray charges in extraordinary wars: where it lay ſo priviledged, that it was a Capital crime to uſe any of it, but in extream and deſperate neceſſity. Notwithſtanding, howſo-

[q] Plutarch in Publicolâ.

[r] Alex. Gen. dier. l. 4. c. 15.

[s] Alex. Gen. dier. l. 2. c. 2.

[t] Alex. Gen. dier. l. 4. c. 15.

[u] Alex. Gen. dier. l. 2. c. 2.

[x] Servius l. 2. Virg. Geog.

ever it was uſed as a treaſure-houſe, yet divers Authors teſtifie that the Acts of their Senate, the books of records, together with ſuch books as were for their immeaſureable bigneſs called *libri Eliphantini*, wherein all the names of their Citizens were regiſtred, and alſo their military Enſignes, were contained there. And from thoſe Scatute-books called *tabulæ publicæ*, this Treaſury was alſo called *Tabularium*, becauſe they were laid up there.

z Alex. Gendier. l. 2. c. 2

y Plutarch in ſuis problem vid. Fran. Sylvium in Catilinar. 4.

Cap. 16.

De campe ſcelerato.

Campus ſceleratus, the field of execution z lying within the city, joyned to the gate *Collina*. It was the place where the Veſtal Nunnes, if they were deflowred, ſuffered puniſhment after this manner. There a was made a Vault under the Earth with a hole left open above, whereby one might go down; within there was a little couch with a burning lamp and a few victuales, whither the defiled Votary was to be brought through the market-place, in a litter ſo cloſed up with thick Leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of execution, was let down by a ladder into a hollow Cave, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kinde of death, was becauſe they thought it not fit that ſhe ſhould be burnt with fire, which kept not the ſacred fire with greater ſanctity: and it was thought unlawful to puniſh them by laying violent hands on them, becauſe they had in former time ſerved in ſo holy a function.

z Munſter in ſua Coſmog.

a Plutarch in Numa.

CAP. 17.

De Campo Martio.

THE[b] *Campus Martius*, otherwise called *Tiberinus*, (because it was near the river *Tiber*) was given unto the *Romane* people, by *Caja Tarratia*, a Vestall Virgin: but *Tarquinius Superbus*, the last King of *Rome*, did take it from the people, converting it to his own private use: insomuch that he sowed Corn there; which, when he was deposed, the *Romanes* did cast into the River *Tiber*, judging it unfit that any man should reap any commodity from so holy a ground, In process of time, the sheaves of Corn being stopped in a shallow foard of the River, became firm ground, and was called, *The holy Island*, or *Æsculapius his Island*: and presently after the expulsion of *Tarquinius*: this *Campus Martius* was restored unto its former use. Beside the natural pleasantness of the place it self, it was beautified with many ornaments brought out of the *Capitoll* (the *Capitoll* being too full) as likewise with divers images of well deserving men. Hither did the younger sort of *Romanes* come to exercise Chivalry, namely the Horse-race, the foot-race, wrestling, fencing casting the bowl the sledge, the dart, using the sling, the bow, valting, with such like; aud upon this occasion it was dedicated to *Mars*, and called by *Strabo* the Romans great school of defence.[c] The manner of valting was, in riding to leap from one horse back upon another, their custom being for their horsemen in war, to lead a spare horse in their hands, besides that whereon they did ride, that when the one did sweat, they leaped upon the others back; *à desiliendo*, those horses were called *Equi desultorii*: whence an unconstant, wavering, and unsettled mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Desultorium ingenium*. In this field were men of best note burned when they dyed. Here were the Kings, and other Magistrates,

[b] Rosin antiq. l. c. c. 11.

[c] Cœl. Rhod. l. 21. c. 29 3.

giſtrates at firſt created. In this [d] field of *Mars* alſo was a place, at firſt rayled like a ſheep-pen, called therefore *Ovilia* or *ſepta*; but afterwards it was mounted with Marble ſtone, beautified with ſtately walkes and Gallaries, and alſo with a Tribunal or ſeat of juſtice, within which precinct the people oftentimes aſſembled to give their ſuffrages toward the election of Magiſtrates. The means of aſcending up unto theſe *Ovilia* was not by ſtairs, but by many bridges made for that time, every pariſh in the Aſſembly of pariſhes, and every Tribe or Ward in the Aſſembly of the Tribes, and every Hundred in the Aſſembly of Centuries having his Bridge: whence this Proverb was occaſioned, *deponte ejiciendus, id eſt*, he is to be barred from giving his voice. [e] Theſe Bridges were not made over any river, but over the dry land: whence men were ſaid to be caſt, *Non ut periclitarentur de vita, ſed ne ſuffragarentur in Comitiis.*

[d] Servius in Buc. eclog. 1.

[e] Ioan. Saxonius in Orat. pro S. Roſcio.

Cap. 18.

De Circo Maximo.

AMongſt other places where the *Romanes* exhibited their plaies unto the people, the moſt remarkable was a great Cirque, or ſhew-place, called in Latine *Circus Maximus*. It was a large piece of ground, lying near that part of the *Aventine* Mount, where *Dianaes* Temple ſtood. It was built by *Tarquinius priſcus*, with divers galleries round about it, from whence the *Senators* and Gentlemen of the City did behold the runing with great Horſes at liſts, the fire-works, tumbling, the baiting and chaſing of wilde beaſts, &c. In former time, all did ſtand on the ground, being ſheltred from the rain by the help of boards upheld with forks in manner of Houſe-Pentices: and this cuſtome continued until the aforeſaid *Tarquinius* erected thoſe Gallaries, called *Fori*, making thirty diſtinctions of them

them, allotting every ward or company their ſeveral quarters all the ſeats being able to contain one hundred fifty thouſand Parties. *f* Under theſe places were cels, or vaults, where women did proſtitute their bodies, and would buy ſtoln goods: and for this reaſon *Horace* calleth it *fallacem Circum*, *id eſt*, the deceitful ſhew-place. There was at the one end of their cirque certain barriers, *id eſt* places barred or railed in, at which place the horſes began the race; and at the other end was the mark, whither the horſes ran; it was called in Latine *Meta*, and the barriers, *carceres à coercendo*: whence we ſay, *à carceribus ad metam, id eſt*, from the beginning to the ending.

f R. ſin. ant. lib. 5. c. 4

CAP. 19.

De Theatro.

THe **Theatre** *g* hath his name from the Greek verbe θεάομαι, *id eſt*, to behold: becauſe the people flocked thither to behold plaies and ſhewes exhibited to them. The cuſtom *h* firſt ſprang from the ſhepherds, who leading a contemplative life, were wont to compoſe dialogues in metre, and at their leaſure to recite them under the trees preſſ'd down in form of an arbor: whence this theatral term σκηνὴ hath been derived from σκιὰ, a ſhadow, but afterwards learned Poets compoſed Comedies, and Tragœdies, which were publikely acted in the City, upon a ſtage: and although at the firſt it was counted infamous to frequent them, yet afterwards the *Senators* themſelves, yea, the *Emperour*, and all the chief of *Rome* aſſembled thither, *i* Neither for a long continuance were there any ſeats built, but Commons, and Nobles, promiſcuouſly one with another, all ſtood on the ground: inſomuch that thoſe which ſtood behind, raiſed up places with turfes of earth, which gave the people occaſion to call the places between thoſe

g Loach. Camerar. in orat pro L. Flacco. *h* Servius, l. 2. virg. Georg.

i Alex. Gen. dier. l. 5. c. 16.

turfes and the ſcaffold *Cavea, id eſt*, a cave or den: yea the people that ſtood there, were ſo called from the place. Though the Theatre be now taken only for the ſtage; yet thē by it was underſtood the whole room, where theſe plaies were acted: & it had divers parts; ſome proper to the actors, ſome to the ſpectators. To the actors firſt belonged the *proſcenium, id eſt*, the houſe whence the plaies came, where they apparell'd themſelves, though ſometimes it is taken for the Scaffold or Stage it ſelf: ſecondly, the *palpitum, id eſt*, the ſtage or ſcaffold upon which they acted: & thirdly; the *ſcena*, that is, the partition, which was commonly made of wood, not of hangings. Now that they might change their Scene according to their pleaſure, they made it [k] *Verſatilem, id eſt*, ſo that with engins it might upon the ſuddain be turned round, and ſo bring the pictures of the other ſide into outward appearance: or otherwiſe *Ductilem, id eſt*, ſo that by drawing aſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new partition might ſeem to be put up: and I think, becauſe thoſe ſhepherds did act no more at a time then one of our *Scenes* hence have we diſtinguiſhed our plaies into ſo many parts, which we call *Scenes*. The places which were proper to the Spectators, were diſtinguiſhed according to their degree and ranke; for the remoteſt benches were for the **Commons** and called *popularia*; the next for the **Knights** and **Gentlemen** of *Rome* called therefore *Equeſtria*; the others wherein the **Senators** did ſit, were cōmonly called *Orcheſtra*: this may be collected out of [l] *Lipſius.* [m] *Cœl. Rhodiginus* ſaith that the *Orcheſtra* was that place joyning to the Stage, where *Choras* ſpake to the people at the end of every act. Divers authors are of *Cœl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greek ὑρχεομαι, to dance: but it ſeemeth more probable to have been a peculiar place, allotted for the Senators, *Iu. Sat.* 3.

Æquales habitus illic ſimilemq́; videbis
Orcheſtram, & populum--id eſt, optimates & plebem. The whole

k Servius l. 3. virg. Georg.

l Lipſius de amphith. c. 14.

m Cœl. Rhod lib. 8. c. 8

whole building made for entertainment of the ſpectators, reſembled a triangle or wedg, ſharp towards the ſtage and broad behind; whence the whole was denoted by the name *Cuneus*: whē *Cuneus* ſignified any particular place about the Theatre, then by it we are to underſtand that which formerly we called *p pularia*, the place for the meaner ſort of people; whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicitamus*. There was alſo another kind of ſcaffold, built quite round, made as it were of two Theatres joyned together, it was called *Amphitheatrum*, and diffred from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a ſemi-circle: it reſembled an egg. Upon this kind of ſcaffold did the Maſters of defence play their prizes: and wild beaſts were baited. *p In Ampitheatro gladiatorii ludi, & concluſarum ferarum venationes exhibebantur.* The *Ampitheatre* it ſelf in the judgement of *q Lipſius* was termed *Cavea, ab interiore parte quæ concava erat*; and *Arena*, becauſe it was ſtrewed with gravel and ſand, that the blood of ſuch as were ſlain in the place might not make the place too ſlippery for the cōbitants. Hence cometh that phraſe, *In arenam deſcendere*, to go into the field: and the combatants were thence called *Arenarij*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravel, yet ſometimes in their extraordinary ſhewes that gravel was covered, and as it were newcoated, with the ſcrapings and duſt of ſome extraordinary ſtones, to add the greater luſtre unto it: thus much *r Pliny* intimateth, *Invenere & alium uſum ejus lapidis, in ramentis quoq; Circum maximum ſternendi, ut ſi in commendatione & candor, &c.* Again, ſometimes the hallow places or dens under the *Ampitheatre*, in which the wilde beaſts were kept, and likewiſe men to be committed with wilde beaſts, out of which theſe were let looſe by the lifting up of trap doors to be hunted or baited upon the *Ampitheatre*, were called *Cavea*. For we muſt

n Cœl. Rhod. lib. 8. cap. 8.

o Turneb. adverſ. lib 5 c. 5.

p Hoſp. de origi. ſcen.

q Lip. de Amphit. c. & 3.

r Plin lib. 36.

know that the *Ampitheatre* was full of hollow paſſages for many reaſons, as for the convenient keeping of wilde beaſts and beaſtiaries, ſo ſometime for the better conveying of waters thither, by the means whereof *f* real ſhips and Sea-skirmiſhes were oftentimes exhibited upon the *Amphitheatre*.

f Sueton. in Domitian.

Cap. 20.

MOreover for the better underſtanding of Claſſicall Authors, it will not be impertinent to point at the general names by which the Religious places were called, and to declare the proper acception of each name: the names being theſe, *Templum*, *Fanum*, *Delubrum*, *Ædes ſacræ*, *Pulvinar*, *Sacrarium*, *Lucus*, *Scrobiculus*, *Ara*, *Altare*, *Focus*.

De Templo.

This word *Templum* doth ſometimes ſignifie thoſe *a* ſpaces and regions in the ayr and earth, which the *Augures* did quarter out with their crooked ſtaff at their South-ſaying. Sometimes it doth ſignifie a ſepulchre or grave, *b* becauſe in old times men did ſuperſtitiouſly pray and worſhip at the Tombes and Monuments of their deceaſed friends, as if it had been in *Temples* or *Churches*: and in this ſence may *Virgil* be underſtood,

a Roſin. antiq. l. 2. c 2.

b Lilius Gyrald. de diis gentil. ſyntag 17.

d Præterea fuit antiquo de marmore Templum
Conjugis antiqui.----

d Lib. 4. Ænead. v. 457.

Moſt commonly it doth ſignifie a Church, or *Temple*: in which ſence as often as it is uſed, it is *e* ſaid a *templando*, from beholding; becauſe when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majeſty of God.

e Franc. Sylvius in orat. pro L. Muræn.

De Fano.

It is alſo called *Fanum à fando*, from ſpeaking: not from the ſpeaking of the Prieſt, but becauſe the people do there ſpeak unto God, and God again to the people. *f* Some are of

f Turneb. adverſ. lib 3 c 9.

of opinion, that *Fanum* in propriety of ſpeech, ſignifieth the **Church-yard**, or court before the Temple: *Templum* ſignifieth the Edifice or Church built.

De Delubro.

Thirdly a Church was called *delubrum*, *Synechdochicè*; becauſe it was the principal part of the Church, namely the place where the Idol God ſtood; and it was called *delubrũ* from *Deus*: [g] as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, ſome were uncovered, becauſe they counted it an hainous matter to ſee thoſe Gods confin'd under a roof, whoſe doing good conſiſted in being abroad: other-ſome covered; ſome round, ſome otherwiſe: but within they much reſembled our great Churches. They had their *pronaon*, or **Church-porch**, whereabouts they were wont to have the image of the beaſt *Sphinx*, which was ſo famous for his obſcure ridles; ſo that by this image was ſignified, that the oracles of the Gods, which were treated of within the Church, were dark and myſtical. They had certain walks on each ſide of the **body of the Church**, which they called *porticus*: and in theſe places it was lawful for them to merchandize, make bargains or confer of any worldly buſineſs; as likewiſe, in the *baſilica* or **Body** it ſelf. But their **Quire**, called *Chorus*, was counted a more holy place, ſet apart only for divine ſervice. The manner of hallowing it, was as followeth. [b] When the place where the Temple ſhould be built, had been appointed by the *Augures* (which appointing, or determining the place they called *Effari templa*, & *ſiſtere Fana*) then did the party, which formerly in time of need upon condition of help from the Gods, had vowed a Temple, call together the *Auruſpices*, which ſhould direct him in what form the Temple ſhould be built; which being known, certain ribbands, and fillets were drawn about the *area* or plot of ground, with flowers and garlands ſtrewed underneath, as it was probable to diſtinguiſh the limits of this

[g] Roſin Antiq. 3. c. 2.

ground now to be hallowed. Then certain ſouldiers marched in with boughs in their hands, and after followed Veſtall Nuns, leading young boyes and maids in their hands, who ſprinkled the place with holy water. After this followed the *Prætor*, ſome *Pontify* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and a Bull, ſacrificed them, and their entralls being laid upon a turfe, the *Prætor* offered up prayers unto the Gods, that they would bleſſe thoſe holy places, which good men intended to dedicate unto them. This being done, the *Prætor* touched certain ropes, wherewith a great ſtone being the firſt of the foundation, was tyed; together with that, other chief Magiſtrates, Prieſts, and all ſorts of people did help to pluck that ſtone, and let it down into its place, caſting in wedges of gold and ſilver, which had never been purified, or tryed in the fire. Theſe ceremonies being ended the *Aruſpex* pronounced with a loud voyce, ſaying, *Ne temeretur opus, ſaxo, aurove in aliud deſtinato; id eſt* Let not this work be unhallowed, by converting this ſtone, or gold, into any other uſe.

De Æde ſacrâ.

Fourthly, a Church was called *Ædes ſacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction between a Church and a religious houſe was this, that a Church beſide that it was dedicated unto ſome God, it was alſo hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious houſe: of which ſort was the Veſtall Nunnery, and the common Treaſury, called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, which doth often ſignifie a Church: the reaſon being taken from a cuſtom amongſt the *Painims*, who were wont in their Churches to make certain beds in the honour of their Gods, and thoſe beds they called *pulvinaria*

Barthol. Latomus in Philippic 4tum.

Pulvinaria, from *Pulvis*, becauſe they were filled with duſt or chaff.

De Sacrario.

Sometimes [k] *Sacrarium* ſignifieth a Temple, though properly it ſignifieth a Sextry or Veſtry, *nempe* [l] *Sacrorum repoſitorium.*

[k] Cic. pro M'a lione.
[l] Franc. Sylvius in orat. pro L. Murzn.

De Lucis.

Near unto divers Temples ſtood certain groves dedicated to ſome of the Gods: they were called in Latine *Luci*, *à non lucendo*, as divers ſay, by the figure *Antiphraſis*. But others are of a contrary opinion, giving it that name, becauſe of the exceeding light it had in the night time, by reaſon of the ſacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they ſacrificed either in their religious houſes, or their groves, were of three ſorts; which we in Engliſh term altars; but the *Romanes* diſtinguiſhed them by three ſeveral names, *Scrobiculus*, *Ara*, & *Altare*.

De Scrobiculo.

[m] *Scrobiculus* was a furrow, or pit containing an altar in it, into which they poured down the blood of the beaſt ſlain, together with milk, honey, and wine, when they ſacrificed to an infernal God.

[m] Alex. Gen. dier. l. 5. c 16.

De Ara.

The ſecond kind of altar was called *Ara*, either *ab ardendo*, becauſe their ſacrifices were burned upon it: or from their imprecations uſed of that time; which in Greek they called ἀρᾶς. It was made four ſquare, not very high from the ground, or as ſome ſay, cloſe to the ground: and upon this they ſacrificed unto the terreſtriall Gods, laying a turfe of graſſe on the altar: and this gave *Virgil* occaſion to cal them [n] *Aras gramineas, id eſt*, graſſie Altars.

[n] Virg. Æn. 12.

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted up ſome-what high from the ground; or becauſe

cauſe he that ſacrificed (by reaſon the altar was ſo high) was conſtrained to lift up his hand *in altum*, on high: and upon this they ſacrificed unto their cœleſtial Gods only. *o*

o Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a general name, ſignifying any of theſe altars; ſo called *à fovendo*: becauſe as *Servius* hath obſerved, that is *focus, quicquid fovet ignem, ſive araſit, ſive quicquid aliud in quo ignis fovetur*. But in ſtrict propriety of ſpeech, it is taken for that Altar on which they ſacrificed to their domeſtick Gods, ſuch as were their *Penates*, or *Lares*; as it appeareth by *Plautus*, *p*

p Aululat act. 2. Sc. 5.

Hæc imponentur in focum noſtro Lari.
Ut fortunatas faciat gnatæ nuptias.

Whence ariſeth that Adage, *Pro aris & focis certare*, ſounding as much as to fight for the defence of religion and ones private eſtate; or (as our Engliſh proverb is) for God and our Country; the proverb being in its original, part of the oath that was adminiſtred unto the *Romane* Souldiers: and thus it is expounded by *q Turnebus*.

q Turneb. Adv. l. 10. c. 7.

LIB.

LIB. I. SECT. I.

The general divisions of the Romane *People*

CAP. I.

De populo Romano, *& ejus prima divisione.*

THus having premised a short Treatise concerning the first situation of *Rome*, and the most remarkable parts thereof, I purpose to proceed to the inhabitants, which Antiquity hath stiled Citizens of *Rome*. And *Erasmus* rather describing a *Roman* then defining him, saith a *Roman* was grave in his conversation, severe in his judgement, constant in his purpose: Whence *Cicero* in his Epistles often useth this phrase, *more Romano*, for *ex animo*, *id est*, unfainedly [a] *Sigonius* rendring the definition of a *Roman* Citizen averreth that no man is *lege optima*, *id est*, in full and compleat manner, a Citizen of *Rome*, but he which hath his habitation there, which is incorporated into a Tribe, and which is made capable of City professments. By the first particle, those which they term *Municipes*; by the second, those which they call *Inquilini*, and by the third, those which they call *Libertini*, are in a man-

[a] Sig. de jur. R m. l. 1. c. 1.

ner disfranchiſed. But whereas *Sigonius* ſaith, that they muſt have their habitation at *Rome*, he would not be ſo underſtood, as if a *Roman* Citizen might not remove his habitation to any other country: For, ſaith he, a *Roman* Citizen may be as long abſent from *Rome*, and the fields belonging to *Rome*, as he pleaſes, ſo that he ſuffer himſelf to be ſeſſed and taxed in common with others toward the ſubſidy-payments, and denyeth to be incorporate into another city. For *T. Pomponius* was a true citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by theſe privileges as by a more proper and peculiar character diſtinguiſhed from other people, and being planted in the City according to the appointment of *Romulus* their King, it ſeemed good unto him to divide them into *b Tribes*, not taking the note of diſtinction only from the divers places they then inhabited, as we read that *Servius* the ſixt King of *Rome* did, making therefore four Tribes τοπικας, local, namely *Suburanã*, *Palatinam*, *Collinam*, & *Eſquilinam*, (which number of local Tribes in proceſs of time increaſed unto the number of 35.) but dividing them according to their ſeveral nations, which at the firſt were *donati civitate, id eſt*, made free denizons of *Rome*: and (they being in number three. 1. The *Subines*, which were named *Tatienſes*, from their King *Tatius*. 2. The *Albanes*, called *Rhamnenſes* from *Romulus*. 3. Other nations promiſcuouſly flocking out of other countries to the Roman *Aſylum* placed in a grove called in Latine *Lucus*, which gave *Romulus* an occaſion to name them *Luceres*:) he made in all three Tribes φυλαι, or nationall. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then ſubdivided each Tribe into ten leſſer numbers, which he called *Curiæ*, or pariſhes: and then followed five other diviſions in reſpect of their different degrees, and callings: of which in their ſeveral order.

b Sig. de jur. R. m. l. 1. c. 3

CAP.

Cap. 2.

De primâ diviſione Romanorum, in Senatores *ſive Patres,* Patricios *ſive Patronos, &* Plebeios *ſive Clientes.*

THe firſt diviſion of the *Romans* in reſpect of their degree and place, was this: The elder, wealthier, and graveſt ſort of *Romane*, were called ſometimes *Patricii*, either becauſe of their age or gravity; or becauſe they had many children (for great privileges were granted unto fathers of three children:) and ſometimes *Patroni*, becauſe they were as Patrons and fathers in helping and aſſiſting the cauſes of the common people ſeeking to them. The younger, poorer and ſimpler ſort were called, as they had relation to the *Patricii*, *Plebeii*, *id eſt*, the commons; as they had relation to their *Patroni*, they were named *Clientes*, *id eſt*, Clients: between whom there was ſuch a mutual, and reciprocal intercourſe of love, and duty, that as the *Patrons* were ready to protect their Clients, ſo the *Clients* were bound with all faithfulneſs to cleave unto their Patrons: and that not only to credit them with their attendance in publike aſſemblies, but to diſburſe out of their own purſes towards the beſtowing of their daughters, the paying of publike mulcts, the giving of largeſſes in ſuing for offices, &c. Neither was it lawful for either of them to inform, to depoſe, to give their voices, or to ſide with adverſaries one againſt another without the guilt of treaſon: for which crime of treaſon they were *diis inferis devoti*, curſed to hell, and the law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect 100 counſellors to aſſiſt him in determining matters concerning the common weal: to theſe did *Romulus* after add another 100, and *Tarquinius Priſcus*, as divers Authors teſtify, made them a compleat 300, which they called *Patres*, or

c Lazius de Reb. Rom. lib. 12. cap. 3.

Senatores, and their sons *Patricii*. But in process of time the Commons also were eligible into a *Senators* place. Some say that *Tarquinius Priscus* added the second hundred to the *Senate* out of the Commons [d] who are called *Senatores minorum gentium*, *id est*, *Senators* of the lower house. *Brutus* added the last 100 and made them 300: at what time they began to be called *Patres conscripti*. And this accordeth with *Ioannes Rosa* in his Epitome of the Roman History, in his *Ch. de Regibus Romanis*: where he saith, that *Tarquinius Priscus* did double the number of the *Senators*: And likewise [e] *Alexander Neop.* saith, that *Brutus* made them compleat 300.

d Martin Phileticus in Cap. 1 ep. fam. 1.

e Alex. Gen. dier. 2, c. 29.

Cap. 3.

De secunda divisione Romanorum in trees ordines, Senatorium Equestrem, Popularem, *seu plebeium*.

After that through *Tarquinius Superbos* his Tyranny, the very name of a King became odious to the *Romans*, not only the present King was exiled, but the Authority of a King ever afterward detested and perpetually abrogated; so that the office, which was before monarchichal, then was divided between two, called *Consuls*: neither were they admitted for any longer space then one year, At which time of change the *Romans* were divided into three orders or ranges, 1. into Senators, of whom before, 2. into Gentlemen, called of the *Romans ordo Equestris*: by which we do not understand those 300 *Celeres*, *id est*, Pensioners, called sometimes *Equites*, for that was a place of service, this a title and token of gentility; who although they were inferior to the chief Senate, yet they were of great esteem among the *Romans*, and although they might not wear the same Robe as the Senators did, namely the *Laticlavium*, or garment bestudded with flourishings of purple silk in manner of broad nail heads; [f] yet they might wear the

f Rosin. antiq. lib 1. cap. 17.

the *Auguſticlavium*, a garment differing from the former only in this, becauſe the purple ſtuds, wherewith it was purfled, was narrow, and not ſo large as the *Laticlavium*. They alſo at the time of their Election received from the *Cenſors*, an horſe called by them *equus publicus*, becauſe of the yearly allowance out of the common Treaſury to keep him: it was alſo called *equus militaris*, becauſe of their ſervice in war (*g* they having their horſes kept as well in peace as war.) They received alſo a gold ring, *h* whereby they were diſtinguiſhed from the populacy: for it was not lawful for any to wear a gold-ring under the degree of a Senator, or a Gentleman. The eſtimation and value of a Senators eſtate *i* until *Auguſtus* his time was *Octingenta ſeſtertia*, that is 6000 l. *k* Of a Gentlemans eſtate, it was *quadragenta ſeſtertia*, i. e. of our Engliſh mony 3000 l. 3. The third order or degree in the *Roman* Common-wealth was *Populus*, the Populacy, or **Commons**, which ſhould exerciſe trading manure the ground, look unto the cattle, *&c.* Where by the way we muſt underſtand that the baſer ſort of the *Romans* which did wander up and down, to and fro, not ſetling themſelves to any vocation, were not contained within this diviſion, for unto them there was no name vouchſafed, but according to the Poet they were *ſine nomine turba*; or as *Livy* ſaith, *ignota capita*, men of no account, and therefore of no name.

g Lip. de mag. tud. Rom. l. 1 dial. 5.
h Alex. Gen. dier. l. 2. c. 29.
i Sue. in Auguſt.
k Plin. lib 33. cap. 22.

CAP. 4.

De tertia diviſione in Nobiles Novos, & Ignobiles.

THis diviſion was taken from the right or priviledge of having Images; for they were accounted Noblemen, which had the Images of their Predeceſſors: Thoſe which had their own Images only were called *Novi*, that is, late coyned Nobles or upſtarts. *Saluſt* uſeth this

word often in the diſgrace of *Tully*, calling him *Novum & repti|ium civem*, one that lately crept into the City. The third ſort, called *ignobiles*, were thoſe that had no Images, neither of their predeceſſors, nor of themſelves. Before we proceed, we muſt underſtand, that it was not lawful for who would to have his own image if he ſo deſired; for none might be thus priviledged, but thoſe alone to whom the right of riding in a Curule chair belonged; and to theſe the right of images was permitted, as well for the credit of their houſe, as to incite others to the like atchievments, when they would conſider the divers ceremonies uſed unto theſe images in an honourable remembrance of thoſe whom they did repreſent. Whence it followeth that *Ius nobilitatis* is nothing elſe but *Jus imaginis*: inſomuch that this word *Imago* doth ſometimes ſignifie Nobility; and the right of having Images with them, was the ſame as the right of having armes with us. The ſuperſtitious conceipt which the *Romans* had of theſe images was ſuch, that upon feſtival dayes and all occaſions of joy and mirth, thoſe images ſhould be beautified and adorned with garlands and flowers upon occaſion of grief and mourning, they would take from them all their ornaments, making them in a manner to partake of their mourning. Some they kept in their private cloſets, others they expoſed to the publike view of paſſengers, placing them in the gates of their houſes, together with the Swords, Targets, Helmet, Ship-beaks, and ſuch other ſpoils as formerly they had taken from their enemies; which it was not lawful for any, though they bought the houſe, ſo much as to deface. Yea they were ſo annexed to the freehold, that they paſſed always in the conveyance of the houſe. The matter of which they were commonly made, was wax, as that of *Juvenal* doth ſufficiently witneſs,

Tota licet veteres exornent undiq; cerâ
Atria, nobilitas ſola eſt atq; unica virtus.

Again, we may not think, that they made in wax a compleat

l Sig. de jur. Rom. l. 2. c. 2.
m Alex. Gen. dier. l. 5. c. 24.
n Barth. Lato. in Verr. n. 7.
o Plin. 35. 2.
p Juv. Sat. 8.

pleat ſtatue or a full portraiture of the whole body, but only from the ſhoulders upward.

Cap. 5.

De quartâ diviſione Romanorum in Optimates *&* Populates.

THis fourth diviſion of the *Romanes* hath been occaſioned through the faction and ſiding of the citizens. Thoſe (according to the deſcription of *q Tully*) were *Optimates, id eſt*, the beſt citizens, who deſired their actions might be liked and approved by the better ſort: Thoſe *Populares, id eſt*, popular, who through deſire of vain glory, would not ſo much conſider what was moſt right, as what ſhould be moſt pleaſing unto the populacy. So that here by this word *popular*, we underſtand not the Commons as formerly we did, but be he Senator, Gentleman, or inferior, if he do more deſire that which ſhall be applauded by the Major part, then that which ſhall be approved by the better part, him the *Romans* called *Popular, id eſt*, ſuch a one, that preferreth the popular applauſe before the right.

q Cic. pro. Sexti.

r Geor. Merula in orat. pro Ligario.

Cap. 6.

De quintâ & ultimâ diviſione Romanorum, in Libertos, Libertinos, *&* Ingenuos: *Item de* Manumiſſione.

THe difference of the freedoms in the City of *Rome* hath given occaſion of this diviſion: for he or ſhe that had ſerved as an *Apprentice*, and afterward was manumized, was named *Libertus* or *Liberta*. The ſon whoſe father and mother were once apprentices, was called *Libertinus*; but that ſon whoſe father and mother were both *Libertines*

bertines, or both free born, ſ yea whoſe mother onely was free, was called *Ingenuus*, *i. e. ſt*, free-born. But after *Appius Cæcus* his Cenſor ſhip then began *Liberti* and *Libertini* to ſignifie one and the ſame degree of freedom: ſo that *Liberti* and *Libertini* were taken for thoſe which ſerved for their freedom, and *Ingenui* were taken for thoſe which were free-born, whether their parents were *Liberti* or *Libertini*. Here is occaſion given us to conſider the manner of their freedom, and ſuch ceremonies which belonged thereunto. The freedom of the City of *Rome* was three wayes obtained: 1. By *Birth*, both, or at leaſt one of the parents being free; and ſuch were called *cives originarii*. 2ly. By gift and *co-optation* when the freedom was beſtowed on any ſtranger, or nation, and they were tearmed *civitate donati*: and ſo we read that *Cæſar* took in whole nations into the freedom. Laſtly by *manumiſſion*, which was thus: when as the ſervant was preſented by his maſter before the *Conſul* or *Prætor*, the maſter laying his hand upon his ſervants head, uſed this form of words, *hunc liberum eſſe volo*, and with that turning his ſervant round and giving him a cuff on the ear, he did *emittere ſervum è manu*: the *Prætor* then laying a certain wand or rod called *t Vindicta* upon the ſervants head, replied in this manner, *Dico eum libirum eſſe more Quiritum*. Then the *Lictor* or Sergeant taking the wand did ſtrike therewith the ſervant on the head, and with his hand ſtruck him on the face, and gave him a puſh on the back, and after this he was regiſtred for a freeman. Moreover the ſervant having his head ſhaven purpoſely at that time, received a cap as a token of liberty; whence *ad pileum vocare aliquem*, is to ſet one at liberty, as likewiſe *vindicta liberare*. *u* According to *Tertullian*, at this time of their manumiſſion the ſervants recieved from their maſters, a white garments a gold ring, and a new name added unto their former. Whoſe authority if we admit, then the having of three names among the *Romans* was rather a ſign of *Freedom* then of *Nobility*. And that of *Juvenal* Tan-

ſ Iuſtin. inſt l. 1. tit. de Ingenuis, vid. Franc. Sylv. n Catilinar. 4.

t P. Ramus in orat pro. C. Rabirio.

u Tert. de reſu. carn.

Tanquam habeas tria nomina----

Is not to be expounded, *as if you were a noble man*, but *as if you were a free man*. Here we may also consider the two severall kinds of servants; the first were called *servi*, and they could never attain to any freedom, without the consent of their master; [x] For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that souldier, or bought *sub coronâ*, or of other citizens that had gotten them one of these two former ways: the second were called properly [y] *nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prætor* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said [z] *nomina sua liberare*, when they payed the debt; as on the contrary they were sayd *nomina facere*, when they became in debt. And their creditors when they sued for the payment, were sayd *nomina exigere*: *nomen* in these and the like places signifying as much as *debitum* a debt, [a] because the creditors did use to write down their debtors names. [b] The manner of suing for their debts was as it followeth; The debt being confessed, thirty dayes were allowed the debtor for the payment of the money (those days of respite they called *dies justos*, *velut justitium quoddam, id est, juris intercessionem & cessationem.*) The money not payd, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison, and unless the creditor were in the mean time compounded with, he remained threescore days in prison, and three market days one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third market day, he was either sold to forrainers for a slave, or else was punished with death, each creditor being suffered, if he would, to cut a piece of his dead body instead of payment.

[x] Dion. Halicar. lib. 4.

[y] Sig. de jud. lib. 1. cap. 31.

[z] Mica. Toxita in orat pro P. Quidtio.

[a] Fr. Sil. in epi. virorum illust. l. 1 ep. 6

[b] Vid Cœl. Rhod. l. 12. cap. 2. Aul. Gel. lib. 2. cap. 1.

LIB. II. SECT. I.

The Generall Diviſions of the Roman *Gods.*

CAP. I.

De Diis.

THough *Satan* had much blinded the hearts of men in old time, yet was not the darkneſs of their underſtanding ſo great, but that they did eaſily perceive, and therefore willingly acknowledge, that there was ſome ſupream Governor, ſome firſt mover, as *Ariſtotle* ſaith, ſome firſt Originall of all goodneſs, as *Plato* teacheth. So that if any made this queſtion, Whether there was any God or no? he ſhould be urged to confeſs the truth of that, rather *Argumento bacillino, quam Ariſtotelico*, rather with a good cudgell, then with any long diſpute. But as they were moſt certain, that there was a God, ſo were they again very blind in diſcerning the true God: and hence hath been invented ſuch a tedious Catalogue of gods, that (as *Varro* averreth) their number hath exceeded thirty thouſand, and proved almoſt numberleſs. Wherefore I ſhall omit to make any diſtinct Treatiſe of the gods, intending *obiter* and by the way to ſpeak of them, which either had Prieſts, or Sacrifices inſtituted for them. Onely I purpoſe to ſhew what is underſtood

ſtood by thoſe general diſtinctions of the Gods, which divers authors have uſed, *Tul. lib.* 2. *de legibus* reduceth all unto three heads, Gods celeſtial, which *Varro* calleth ſelect, and others have ſtiled Gods *majorum gentium, id eſt*, of the greater nations, becauſe their power was greater then the others. [a] *Alexander Neopolitanus* ſaith, that twelve of theſe were the *Penates* which *Æneas* did take forth with him at the deſtruction of *Troy*. *Ovid* calleth them *Deos nobiles*, noble Gods: others call them, *Deos conſentes*, *quaſi conſentes*, becauſe *Jupiter* would do nothing without the conſent of all. *Ennius* hath delivered them in this diſtich.

Juno Veſta, Minerva, Ceres, Diana, Venus, Mars.
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.

The ſecond ſort of Gods, were called *Semidei, id eſt*, Demigods; alſo *indigites id eſt*, Gods adopted, or canonized; men deified. For as the ſelect Gods had poſſeſſion of heaven by their own right; ſo theſe Gods canonized, had it no otherwiſe then by right of donation, being therefore tranſlated into heaven, becauſe they lived as Gods upon earth: but becauſe their merit was inferiour, and could not parallel the deſerts of the Gods ſelect therefore were they called Gods of inferiour note [c] *Servius* would have theſe called *Devi*: obſerving this difference between *Dii* and *Divi*, that *Dii* ſhould ſignifie thoſe which had been Gods perpetually, but *Divi* ſhould ſignifie men made Gods, though commonly they are uſed one for another. Whence they called all their Emperours *Divi*, becauſe for their deſerts they thought them worthy to be Gods. Now the [d] manner how a man became deified was this; The party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other leſſer Tabernacles, one on the top of another, the lowermoſt having in it dry combuſtible matter, but on the out-ſide adorned richly with Gold, Ivory, and painted Tables: hither the dead corps was to be carried with great ſolemnities; the Senate the Gentlemen, and all the

[a] Alex. Gen. dier. l. 6. c. 6

[b] Servius in lib. Georg. c.

[c] In Æneid. lib. 5.

[d] Roſin. Ant. l. 3. c. 18. vid. Hoſpinian. de orig. Chriſt. F. p. 21. Vid. exemplum hujus conſecrationis in Severi ſepultura, Herodian. lib. 4. p. 298.

the chief Magiſtrates going before, with Hymns and Songs, and all kind of honour which was to be performed even to the gods themſelves. He being in this manner brought, and layd within the ſecond tabernacle, the fire was kindled, by him who was to ſucceed in the Empire, for I finde none cannonized but only Emperors at their deceaſe, forthwith at the kindling of the fire, a living Eagle was let fly ſtom the top of the tabernacle, which was ſuppoſed to tranſport the ſoul of the dead body into Heaven, inſomuch that ever after he was canonized amongſt the gods, and worſhipped as a god. And becauſe they were thus turned into gods, ſome have called them *Deos animales*, *quoniam animæ humanæ veaterentur in Deos* This canonization was by the Greeks termed ἀποθέωσις, by the Latines *conſecratio*. The third ſort were thoſe moral vertues, by which as by a ladder men climbed into Heaven: and therefore did men ſtile them gods, becauſe by their means men became defied. Late writers perceiving that all the number of the Gods could not be reduced into theſe three heads, have added a fourth ſort, which they *f* call *Semones*, *quaſi ſemi homines*, becauſe ancient writers, as *Roſinus*, hath obſerved, called men *hemones*, not *homines*, in which point I ſhall willingly condeſcend unto him; but I ſhall leave to the judgement of others, to determine how juſtly he hath reſtrained the gods *minorum gentium*, of the leſſer Nations, only unto this laſt *claſſis*: whereas my oppinion is, that the demy gods, the moral vertues which have been ſtiled gods, and theſe *Semones*, may all of them be called gods of the leſſer Nations, ſtanding in oppoſition with the gods ſelect, which are called gods of the greater Nations. But that we may underſtand what is meant by theſe *Semones*, we muſt remember that by them are ſignified unto us not thoſe gods which do appertain to man himſelf, but to the neceſſaries of mans living, his victuals, his cloathing, and the like; not to the being of a man, but to the welbeing of him: of which ſort is *Salus Fortuna*, with others. We read likewiſe of other names

e Serv. in Æn. lib. 3.

f Roſin. ant. q. lib. 2. cap. 19

given in common to divers Gods, not as oppoſite members of a diviſion, but as notes of diſtinction drawn from the diverſity of help, which they ſeverally did afford unto man. In this reſpect ſome were called *Dii patrii*, or *tutelares*, ſuch as had undertaken the protection of any City or Town: which opinion had ſometimes been entertained by our Engliſh men, and thence have riſen theſe and the like ſpeeches, S. George for England, S. Denis for France, S. Patrick for Ireland, &c. And the *Romans* being fully perſwaded of the truth thereof, whenſoever they went about to beſiege any Town, by certain enchantments or ſpells, they would firſt call out theſe Tutelar Gods; becauſe they deemed it a matter impoſſible to captivate the city, as long as theſe Gods were within; or at leaſt they thought it a crime unexpiable to take the Gods as priſoners, and leaſt other Nations might uſe the ſame means in beſieging *Rome*, therefore [g] as divers Authors have thought, the true name of the *Romane* City was never known, leſt thereby the name of their Tutelar God might be deſcried. Others, namely the *Tyrians* have tyed faſt their God *Hercules* with a golden chain, thereby the more to ſecure themſelves of his reſidence among them. [b] Others have been called *Dii communes*, namely *Mars*, *Bellona*, and *Victoria*, becauſe in time of war they are not bound to either ſide: but ſometimes they help one ſide, and ſometimes the other. And as they ſuppoſed ſome Gods to have the protection of whole countries, ſo did they beleeve that others had the charge of particular men; and that ſo ſoon as any man was born, two ſpirits did preſently accompany him inviſibly, the one termed the *bonus Genius*, or good Angel, perſwading him to that which ſhould be good; the other called the *malus Genius*, or evil Angel, tempting him to that which ſhould be hurtful: inſomuch that they thought all the actions of men to be guided by theſe Angels called *Genii*; ſo that if any misfortune befel a man, they would ſay that the matter was enterpriſed *Diis iratis*, *id eſt*, our *Genius* being diſpleaſed with us.

[g] Sylvius in epiſt. virorum illuſtrium.

[b] Alex. Gen dier. l. 6. c. 4

Virgil

Virgil calleth theſe bad Angels *Manes*, as it appeareth by that, *Quiſq; ſuos patitur manes*, *id eſt*, Every man hath his evil Angel, *id eſt*, ſome misfortune. Theſe *Genii* were thought to be a middle eſſence between men and Gods, They are therefore called *Genii*, becauſe they have the tuition of us ſo ſoon as we are *geniti*, *id eſt*, born: It is moſt certain that old authors uſed *geno* for *Gigno*; whence [i] *Tully* ſaith, *Si mihi filius genitur*; and [k] *Varro*, *Antequã genat ſiliquas* although every place had alſo his *Genius*, as hereafter ſhall appear. This opinion was the more confirmed by a viſion which appeared unto [l] *Brutus* in *Aſia* neer unto the time of his death; for *Brutus* watching upon a certain night in his pavilion, the candle being neer ſpent, ſaw a fierce tragical perſon appear unto him, ſomewhat bigger then a man, and he preſently being of an undaunted ſpirit, demanded whether he were a God or a man? To whom the viſion anſwered, *Brutus*, I am the evil *Genius* which haunteth thee, thou ſhalt ſee me at the City *Philippi* again, and the ſame viſion appeared unto him, as he was fighting at *Philippi*, which was the laſt fight that ever he fought. And becauſe *Iuno* was wont to be invocated in the time of Child-birth, therefore many have thought that every man hath not his two Angels, but one Angel, and *Iuno* to obſerve him: but it is agreed upon by beſt Authors, that as the Angels or ſpirits which did attend men, were termed *Genii*; ſo thoſe which guarded women were termed *Iunones*. This *Genius*, as often as he is underſtood for the good or evil *Angel*, which hath charge of a mans body, is painted in form of a man, as we read did appear to *Brutus*; though ſometime he is painted as a young boy, ſometime as an old decripit man, [m] but always with a crown of plane-tree, which therefore was called *Genialis arbor*: in the right hand he held a platter over an altar garniſh'd with flowers, in the left he held a ſcourge hanging down. The ſacrifice that was performed unto the *Genius*, was wine and flowers: whereupon (as if by wine, and fragant odors were ſignified all kind of plea-

[i] Cic. lib. 2. de orat.

[k] Varro Rei Ruſt. l. 2. c. 3.

[l] Plut. in Brut.

[m] Roſin. ant. q. lib. 3. cap. 14.

pleaſures) certain proverbial ſpeeches have been occaſioned; as when we ſee a man given much to his pleaſure, and dainty feeding, we ſay he doth *indulgere genio, id eſt*, pamper or make much of his *Genius*; on the contrary, he that is abſtemious and debarreth himſelf of his pleaſure and dainty feeding, is ſaid *defraudare genium*, to defraud his *Genius*; and *genialis* ſignifieth jocund or pleaſant. [n] It was alſo the cuſtome after meals to have a cup paſſe round the table, much like unto our *poculum charitatis* and it was called *poculum boni genii*: [o] The *Grecians* had a like cuſtome; whence that cup was called by them, κρᾶσις ἀγαθοῦ δαίμονος. But the reaſon why they would not ſacrifice unto their *Genius* by killing ſome hoſt, as they did to their other gods, was, becauſe they judged it unfit to deprive any creature of his life upon that day, when they firſt began their life (for this ſacrifice was performed yearly by every one upon his birth day.) *Horace* notwithſtanding, doth more then intimate the killing of a young pig in that ſacrifice.

[n] Vid Eraſm. adag.

[o] Cœl. Rhod. lib. 28. cap. 6.

--- cras Genium mero
Placabis, & porco biemſtri. Hor. lib. 3. Od. 17.

The other *Genius* which is ſuppoſed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a ſnake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his father *Anchiſes*, *Æneid. l. 5.*

Sat 1. *---- Adytis cum lubricus anguis ab imis*
Septem ingens gyros, ſeptena volumina traxit.

And *Perſius*,

Pinge duos angues, pueri, ſacer eſt locus, extra
Meiite, id eſt, duos Genios.

Another ſort of Gods was ſuppoſed to have the keeping of mens houſes; [p] which they painted in the form of a dog, becauſe thoſe to whom the charge of houſes is committed ought to reſemble dogs, that is, to ſeem fierce and angry towards ſtrangers, but gentle and kinde to thoſe of the houſe-

[p] Franc. Sylv. inorat. pro Sext. Roſc. Am.

hold

hold: other properties wherein theſe *Lares* do reſemble Dogs, are recited by *Ovid. Faſt.* 5.

Servat uterq́, domum, domino quoq́, fidus uterq́, eſt,
Compata grata Deo, compata grata cani:
Exagitant & lar, & turba Diania fures,
Pervigilantq́, lares, pervigilantq́, canes.

They were named *Lares*; and becauſe of the charge they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare*, *Horat.* in a little cottage, *homo incerti laris*, *id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an hainous matter to ſend any of that ſacrifice abroad, either among their friends, or the poore: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the curteſie morſell, we ſay *Lari ſacrificat*, *id eſt*, he ſacrificeth to his houſhold God.

LIB 2. SECT. 2.

Of the Roman Prieſts with ſome particular GODS.

FAunus the ancienteſt of all the Kings in *Italy*, was the firſt that brought any form of Religion into *Italy*. He conſecrated groves, gave names unto Cities, erected Temples, ordained ſacrifices, &c. from whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterward being K. of *Latium*, he inſtituted, & appointed many other ceremonies which before were unknown to the Latines. After him *Æneas* coming from *Troy*, taught many of the *Trojan* ceremonies; by whoſe examples *Romulus* and *Numa* were incited to add many other kinds of holy rites, and at length reduced their whole religion into a certain order, eſpecially *Numa*, who that he might gain the more credit and authority to his new invented ſuperſtitions, feigned that he had conference about them every night with the Goddeſſe *Egeria*. My intent therefore is, to ſpeak firſt of the god, in whoſe honour theſe holy rites were performed, and then to deſcend unto the Prieſts, which were to perform them, ſhewing withall the ceremonies they uſed in the performance.

Lact. de fall. rel. l. 1. c. 22.

CAP.

CAP. I.

De Pane Lycæo, ſive Fauno: de Lupercis, & Lupercalibus.

Pan was ſuppoſed to be the God of the Sheep-heards, and is [a] thus deſcribed: he is pictured naked, having Horns in likeneſſe of the Sun Beams, a long Beard, his face red like the clear air, in his breaſt the Star *Nebris*, the neather part of his body rough, his feet like a Goat: in one hand he holdeth a Pipe, in the other a ſhepheards crook, and alwaies is imagined to laugh. [b] He was worſhipped firſt in *Arcadia*, and there called the God *Pan Lycæus*, but afterwards he was had in great eſteem at *Rome*, [c] and in the honour of him certain ſacrifices, and games called *Lupercalia* were ſolemnized by the Romans. [d] There he took the name *Faunus*, or as ſome ſay *Funus*. Concerning the time when theſe ſacrifices were to be performed; it was upon the [e] unfortunate days of the moneth *February*, which hath his name *à februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth as much as a feaſt of Wolves, in a memorial that *Romulus* and *Remus* were nurſed by a Shee-wolf. This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci*, began their courſe at the foot of the Mount *Palatine*, called by the Romans *Lupercal, id eſt*, the place where the Wolf nurſed *Romulus*. The ceremonies were theſe: the hoaſt (being two Goats) was to be ſlain, and two noble mens ſons were to be preſent, whoſe foreheads being blou'ed with the knives of them that had ſlain the Goats, by and by were to be dried up with wooll dipped in milk. Then the young boyes muſt laugh immediately after their foreheads were dry; That done, they cut the Goats skins and made thongs of them, which they took in their hands, and

[a] Servius in Virg. Ecl. 2.

[b] Feneſt. de ſacerd. cap. 1.

[c] Feneſt. ib.

[d] Pomponius Lætus de Sacerdot. cap. de Laper.

[e] Plutarch. in Romulo.

[f] Plutarch. in Romulo.

ran with them all about the City ſtark naked (ſaving they had a cloath before their privities) and ſo they ſtruck with thoſe thongs all they met in the way. The young wives did never ſhun them at all, but were well contented to be ſtricken with them; beleeving it helped them to be with child, and alſo to be eaſily delivered. Moreover it is to be noted that a Dog was ſacrificed at this time: becauſe there is a natural Antipathy or contrariety of Nature, between the Dog and the Wolf: whereby *Romulus* thought to teſtifie his gratefulneſſe unto the Wolf for her pains in nouriſhing him. The reaſon why the Prieſts ran up and down the ſtreets naked, was becauſe that *Pan* the god of this ſacrifice was painted naked. As the feaſt, ſo alſo the place from whence they came, and likewiſe the Prieſts had their names *à Lupa*, which ſignifieth a Wolf. Some Authors have obſerved three ſorts of the *Luperci*, ſome called *Fabiani*, ſome *Quintiliani*, from *Fabius* and *Quintilius* their Governours: the third ſort, which *g Roſinus* affirmeth to have been added in the honour of *Julius Cæſar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* ſaith in another place, namely, that *Auguſtus Cæſar* when he was chief Pontifie did reſtore the'e games again, being formerly aboliſhed.

g Roſin. ant. l. 3. c. 2.

h Sueton. in Auguſt.

Cap. 2.

De Sacreve, & Sacris ejus.

Ceres, otherwiſe called *Eleuſina*, was honoured firſt among the *Grecians*, afterward among the *Romans*, as a goddeſſe, which firſt taught men the skill of husbandry.

Prima Ceres ferro mortales vertere terram.
Inſtituit. Virg. Georg.

Whence ſhe is ſometimes *metonymicῶς* taken for Corn, as

credenda

credenda Ceres arvis, Ovid. It is seed time. She is called *Ceres, quasi Geres, a gerendis frugibus,* from bearing fruit; because as some say, by *Ceres* is understood sometimes the earth it self, whence also δημήτηρ being the Greek name of *Ceres* is said *quasi* γῆ μήτηρ, *id est*, the earth, which is the common mother of us all. [k] She is painted in the habit of a Matron wearing a garland of Corn; sometime sorrowfull, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into hell; and sometime with a handfull of Corn or Poppy seed. Upon the fifth of the Kalends of *April* the Romans were wont to perform sacrifices unto her, which they called *sacra Græca, id est*, the Græcian sacrifices, as likewise they termed the chief woman which did perform them, *sacerdotem Græcam, id est*, the Greek Ministresse, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were onely women which ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed might enter: whose mysteries were to be buried in silence, and by no means to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbad in this sacrifice. So that hence [l] we say *Cereri sacrificat* he sacrifies to *Ceres*, when he makes a feast without wine.

[k] Cic. lib. 3. de nat. Deor.

[k] Rosin. ant. lib. 2. cap. 11.

[l] Plautus in Aulularia.

Cap. 3.

De Potitiis, & Pinariis, Herculis sacerdotibus.

HErcules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Heards-men's complaint brought unto *Evander* of him, whom they accused to have slain their chief Heards-man *Cacus*, the History being [m] thus; *Hercules* after his Conquest

[m] Ser. Æn. lib. 8.

queſt over *Geryon* brought away with him certain goodly Oxen, and as well to reſt himſelf, as to paſture his Oxen, he laid him down to ſleep in a green field neer the River *Tyber*. In the mean while a certain herds-man called *Cacus*, happened to come that way, and perceiving *Hercules* to be in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a Cave, or hollow Rock, pulling them in by the taile backward, thinking that *Hercules* when he ſhould look his oxen and ſee the print of their footſteps, would eaſily believe that his Oxen had rather gone out from that Rock then into it, as indeed he did for a time beleeve: but afterwards by the bellowing of the Oxen within, anſwering their fellows without, *Hercules* entred the Rock, and finding the thief *Cacus* there with his Oxen, he killed him, by reaſon of which murder he was brought before *Evander*; and after a while known to be the *Hercules*, of whom the Propheteſs *Carmenta* had foretold unto *Evander*, that he ſhould be a God: whereupon *Evander* preſently ſaluted him by the name of *Hercules* the ſon of *Jupiter*, and in honor of him cauſed an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this ſacrifice might be had in the more eſteem, two Noblemen well ſtrucken in years, and of good repute among the Romanes, one of them being called *Potitius*, and the other *Pinarius* were appointed as the Prieſts to perform theſe ſacrifices; from whom ever after *Hercules* his Prieſts were called *Potitii*, and *Pinarii*. Where by the way we muſt obſerve, that *Pinarius* was not the ſir-name of this Nobleman, but a name added unto him, intimating his and his ſucceſſors punithment, for not coming ſoon enough according to the time appointed by *Hercules*. For as [a] divers writers teſtifie, the entrals of the hoaſt were almoſt eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in puniſhment of their negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entrals, giving them this name *Pinarii*

[a] Serv. Æn lib. 8.

at

at that time, from the Greek Word λιμὸν ſignifieth hunger.

Cap. 4.

De Fratribus Arvalibus.

THis Colledge or Company of Roman Prieſts may be Engliſhed the *Arval fraternity*: the number of them being twelve, eleven of them natural brothers, ſons to *Acca Laurentia*, *Romulus* his Foſter-mother; o for which reſpect *Romulus* yeelded himſelf her adopted ſon, inſtituting this order in the honour of *Ceres* and *Bacchus* for the plenty of wine and Corn, unto whom they did offer up certain ſacrifices called *Ambarvales hoſtiæ*, *quòd antequam mactarentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hoſtia fruges*, that they being therewith appeaſed might the willinger cauſe the earth to fructifie, and added himſelf to the former eleven as the twelfth Prieſt, or brother to help in the performance of this publick ſacrifice: moreover beſide the performance of this ſacrifice theſe twelve were appointed *Arbitrators*, or Judges to decide controverſies concerning land-marks and bounds of the field from whence they took their name *fratres arvales*. Their ſacerdotal ornament was a garland of wheat bound up with a white ribband, this being, as p *Pliny* writeth the firſt Crown, or garland amongſt the Romans.

o Feneſt. de Sacerd. c. 3.

Maſſ. de orig. Almanach. c. 10.

p Plin. lib. 17. cap. 2.

Cap. 5.

De Sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and ſub-divided thoſe three Wards into thirty Pariſhes, called *Curiæ*, he ordained out of each *Curiæ* two Pariſh-Prieſts or Curates called *Curiones*, or *Flamines Curiales*; which were pub-

publickly to offer up ſacrifice in the behalf of the people. Neither was every one equally capable of this honour of Prieſthood, [q] but he was to be at the leaſt fifty years old, of a life unſpotted, and a body unmaimed. And over all theſe there was one which had chief rule, and therefore was called *Curio maximus*, the Biſhop, or chief Prelate: and theſe ſacrifices were called *Curionia*. [r] Their ſacrifice being ended, each Pariſh had a feaſt in a common Hall built for that purpoſe: it was called *Domus Curialis*, and ſometimes *Curia*.

[q] Dion. Hal. lib. 2.

[r] Dion. Hal. lib. 2.

CAP. 6.

De Auguribus, & eorum Collegio.

AMongſt other kinds of fore-tellers, we read of three principally uſed in former time, namely, *Aruſpices*, *Auſpices*, & *Augures*: all which we Engliſh Sooth ſayers, though the Latine words do import a main difference, worth our obſervation: all are alluded unto by *Ovid*.

Ovid. triſt. l. 1 Eleg. 2.

Hoc mihi non ovium fibræ, tonitruſve ſiniſtri,
Linguave ſervatæ pennave dixit avis.

The *Aruſpices* did divine or foretell things to come by beholding the entrals of beaſts ſacrificed: whence they had their name, *ab aras inſpiciendo*, from beholding the Altars. The *Auſpices* did foretell things by beholding the flight of birds: ſo that *Auſpices* are ſaid *quaſi aviſpices*, *ab aves aſpiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds: whence they are called *Augures ab avium garritu*, from the chirping and chatting of birds. Theſe two laſt kinds of ſoothſaying have occaſioned theſe, and the like phraſes, *bonis avibus*, or *auſpiciis*, with good luck, *malis avibus*, *id eſt*, with ill luck: and becauſe they would begin nothing *in auſpicio*, *id eſt*, without the counſel of the *Augures*, hence *Auſpicarirem* hath been tranſlated, to be-

[t] Fr. Sylv. in orat. pro Cæcinna.

gin

gin a matter. The Colledge of the *Augures* at Rome, was firſt appointed by [u] *Romulus* himſelf, being very expert in ſoothſaying, there being at the firſt but three, namely one of each Tribe: (The word *Augur* being not taken in his own proper ſenſe and ſignification above mentioned; but generally, by the trope *Synechaoche*, ſignifying all kinds and ſorts of divining whatſoever, whether it were by obſerving the entrals of beaſts, the flying, ſchreeching, and chatting of birds, or thundring or lightening in the Heaven, or marking the rebounding of crums caſt unto birds, which kinde of divining was called *Tripudium.*) [x] *Servius Tullius* the ſixth Roman King, when he divided *Rome* into four local Tribes, *id eſt*, Regions, or quarters, then did he adde the fourth *Augur*, all of them being elected out of the *Patricii* or the Nobility of Rome. [y] In proceſs of time *Quintus*, and *Canus Egulinus* being choſen *Tribuni pl bis id eſt*, protectors of the Commons, obtained that five other *Augures* ſhould be choſen out of the commonalty, and added unto the former four: at which time the Senate decreed that the Colledge of *Augures* ſhould never exceed the number of nine. [z] Notwithſtanding *Sylla* being *Dictator* added 6 more, inſomuch that their Colledge increaſed to the number of 15. the eldeſt of which was called [a] *Magiſter Collegii*, the Maſter, or *Rector* of the Colledge. The *Augurs* excelled other Prieſts in [b] this reſpect, becauſe if any of them had been convinced of any hainous crime, he did not loſe his office, neither was any other ſubrogated into his room, although the Romane cuſtome was, that if any other Prieſt had committed any notorious offence, he ſhould preſently be diſcharged of his office, and another choſen in his place. [c] The maner how the *Augur* did obſerve was this: He ſate upon a Caſtle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked ſtaff (called in Latine *Lituus*) in his hand, where ſitting in his ſoothſaying robe, called *Lana*, and in Greek χλαῖνα παρὰ τὸ χλιαίνειν, *à calefaciendo*, from heating, becauſe it was well lined

[u] Pomp. Lætus de Augur.

[x] Roſin. ant. lib. 3. cap. 8.

[y] Roſin. ibid.

[z] Roſin. ib.

[a] Alex. Gen. dier. l. 5. c. 19.

[b] Alex. ib.

[c] Pomp. Lætus de Aug.

lined within; being garded on the outſide with purple and crimſon gards) having his head covered, and his face turned toward the eaſt, ſo that his back was weſt-ward, his right ſide ſouthward, and his left north-ward. Being thus placed, he quartered out with his crooked ſtaffe the heaven into certain *templa, id eſt*, Regions or places, obſerving in what region the birds dids appear: then killing his ſacrifice, and offering up certain prayers called *Effata*, he proceeded in maner as followeth. But firſt ſuppoſe we for our better underſtanding hereof, that now the *Augures* were to reſolve the people, whether the gods would aſſent that *Numa Pompilius* ſhould be King. The *Augur* having done as above is ſhewed, his *Lituus* being in his left hand, he reach'd forth his right hand, putting it upon *Numa Pompilius* his head, uſing this form of words, *Jupiter pater, ſi fas ſit Numam Pompilium, cujus ego caput teneo, regem Romæ eſſe, fac uti nobis ſigna certa ac clara ſint inter eos fines quos feci, i. e.* If it be lawful for this *Numa Pompilius*, whoſe head I hold to be King of *Rome*, ſhew ſome manifeſt tokens within theſe regions or quarters which I have deſcribed. Then if he obſerved lucky ſignes and tokens he preſently pronounced *Numa Pompilius* King of *Rome*, if he perceived unlucky tokens, then did he *obnunciare*, or gainſay, and ſhew that the matter propoſed was not pleaſing to the gods. Where by the way we muſt note, that nothing was confirmed by the *Augures* without the appearance ſo two lucky tokens one after another; neither was any thing gain-ſayd by the appeareance of the only evil token. The diſtinctions of the ſoothſayings have been taken, ſome from the event, and thence are they called *proſpera*, lucky, or *adverſa*, unlucky; ſome from the manner of appearing, [d] and that was either wiſhed, being called therefore *impetrativa*, or unwiſhed, called *oblativa*; ſome from the diverſity ſo things which offered themſelves in time of divining, and of there were five diſtinct ſorts: the firſt was by the obſerving of lightening and thunder from Heaven; the ſecond from the flying

[d] Ser. Æneï. l. 6.

flying and chatting of birds; the third from bread caſt to pullets or little chicken; the fourth from four footed beaſts, which either ſhould croſs the way, or appear in ſome unaccuſtomed place; the fift from thoſe caſualties whereby the gods do make their anger appear unto us. Of this ſort are thoſe voices which we hear we know not whence (as [e] *Cadmus* heard, when he overcame the ſerpent;) the falling of ſalt towards us at the table, the ſhedding of wine upon our clothes from which caſualties and the like, the *Augures* would pronounce either good fortune, or bad to enſue: And theſe tokens were therefore called *Dira*, becauſe thereby *Dei ira nobis innoteſcit*, the gods anger is made known unto us. Now the things that in divining time appeared on the left hand were commonly tokens of good luck, becauſe the givers right hand in beſtowing a benefit is oppoſite to the receivers left hand. Whence [f] *ſiniſtrum*, though in humane affairs it ſignifies as much as unlucky, yet in thoſe holy rites of divining, *ſiniſtrium* is taken in a contrary ſenſe, as *Avis ſiniſtra*, good luck; *Intonuit lævum*, it hath thundered luckily, we ſhall have good ſucceſs: and it is ſaid, *a ſinendo*, becauſe the gods thereby do ſuffer us to proceed in our purpoſed projects. And therefore *Tully* ſaith, *lib.* 1. *de devinatione*, *a ſiniſtrâ cornice ratum & firmum Augurium fieri*: and in the law of the 12 tables it is ſaid, *Ave ſiniſtrâ pupuli magiſter eſto.* [g] The *Gracians* from hence in the judgement of *Lipſius* have called the left hand ἀειστέρον from ἄειστον ſignifying beſt.

[e] Vox ſubito audita eſt neq; erat cognoſcere promptum unde, ſed audita eſt. Ovid. Met. l. 3. fab. 1.

[f] Serv. Æneid. lib. 2.

[g] Lipſ. Elect. lib. 2 cap. 2.

Cap. 7.

De Tripudiis & Pullariis.

THis kinde of conjecturing is called *auſpicium coactum*, [h] *quoniam neceſſe erat offâ objecta cadere fruſtum expulli ore, cum paſcitur.* The word *Tripudium* is uſed by a ſyncopation for *terripudium*, which is as much as *terripa-*

[h] Cic. de divinat. lib 1.

vium, id eſt, a dancing or rebounding of any thing upon the ground: for *pavire* is the ſame with *ferire*. [b] Others ſay *Tripudium quaſi tritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crums caſt to chicken in a coop or pen: whence the *Augur* from theſe pullets or chicken was called *Pullarius, id eſt*, a Bird-Prophet. [i] The manner in obſerving was this: as often as by this kinde of conjecturing they deſire to know the Gods pleaſure concerning the enterprizing of any matter, early in the morning thoſe that were skilfull in this kinde of obſervation, repaired unto the place where the chicken were kept, where ſilence being commanded, and the coop opened, they caſt crumbs of bread to the chicken: now if the chicken either came ſlowly, or not all unto the bread, or if they walked upon and down by it not touching it, then was it a token that the matter to be enterprized was diſpleaſing unto the gods: but if contrarily the chicken did haſtily leap out of the coop, and eat ſo greedily of the crums, that ſome ſhould fall out of their mouths again, then the *Pullarius*, that is, the *Augur* pronounced that it was well pleaſing to the gods, and encouraged the enterprizing of what they had intended cheerfully: and this was called *Tripudium ſoliſtimum*. This kinde of conjecturing may ſeem to have its original from the *Lycians*, [k] who as often as they deſired to fore know the ſucceſs of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they caſt baits for the fiſhes: now if the fiſhes did eat them, it did betide good luck; if otherwiſe they neglected the baits, then it did betoken ſome evil event.

[b] Humbert. in lib. 6. Ep. fam. Cic.

[i] Alex. Gen. dier. l. 1. c. 29.

[k] Alex. ib.

CAP.

Cap. 8.

De Aruſpicibus, Aruſpicinâ, & Extiſpicino.

THis kinde of Sooth-ſayers, as they were called *Aruſpices, ab aras aſpiciendo,* from the beholding the beaſt upon the altar; ſo were they called *Extiſpices, ab exta aſpiciendo,* from beholding the bowels or entrals of the beaſt called in Latine *Exta.* In this kind of ſooth-ſaying the *Aruſpex* obſerved in manner as followeth: firſt [l] whether the beaſt to be ſacrificed came unto the altar willingly, without plucking and hailing; whether he dyed without much ſtrugling, or lowd bellowing, at one blow or many; whether any unlucky object were ſeen, or heard by them whiles they were ſacrificing. Again, after the beaſt was ſlain, then would they obſerve whether the bowels were of an unnatural colour, whether they were not ulcerous, exſiccate, or impoſtumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what would befall themſelves and their friends, the other they would call *partem hoſtilem*, whence they gathered predictions touching their enemies. Hence *Manto* in [m] *Seneca* deſcribing the entrals of his killed ſacrifice, ſaith *Hoſtile valido robore inſurgit latus*, meaning by *hoſtile latus*, *partem hoſtilem.* Afterward when the ſacrifice was to be burned, they conſidered whether the flame of the fire was ſmoakie, whether the ſmoak rolled and tumbled in the ayre, whether it were of any countenance or no: for all theſe were unfortunate tokens, as the contrary did betoken a good and fortunate iſſue to their deſignments. Theſe laſt which obſerved the fire and ſmoak were called by a more peculiar name *Capnomates*, ſmoke-augures, from the Greek words καπνὸς ſignifying ſmoke, and μάντις, *id eſt*, *vates*, or a Soothſayer. The firſt inſtructions that the *Romans* received

[l] Senec. Oed. Act. 2. ſcen. 2.

[m] Oedip. Act. 2. ſcen. 2.

was from the *Hetruſci*, (who as they themſelves ſay) received their knowledge from a little boy, which they named *Tages*, the hiſtory being thus; [n] when the *Hetruſci* were plowing the lands, upon a ſudden upſtarted this *Tages* out of one of the furrows, uſing divers ſpeeches unto the plow-men: but they being much affrighted at this ſudden and ſtrange viſion, began with a loud cry to lift up their voices; upon occaſion whereof many other people flocked thither, where he gave many good inſtructions concerning this kinde of ſoothſaying, which were preſently recorded in books, and practiſed afterward by the *Hetruſci*.

[n] Cic. de divinat. Indigenæ dixere Tagem, qui primus Hetruſcam Edocuit gentem caſus aperire futuros. Ov. Met. lib. ult.

Cap. 9.

De Flaminibus.

THe mitre or head-ornament which theſe Prieſts did wear, was calledin old time [o] *Flama*, whence the Prieſts took their name *Flamines*. The [p] cuſtome amongſt the *Græcians*, as likewiſe afterwards among the *Romans* was, that the Kings ſhould as well perform ceremonies and holy rites of religion, as civil buſineſſes. But *Numa Pompilius* perceiving that forrain wars did oftentimes occaſion the Kings abſence, inſomuch that thoſe religious ceremonies which he himſelf perſonally ſhould perform were of neceſſity ſometimes neglected, hereupon he ordained out of the *Patricii* three Prieſts to perform that divine ſervice unto *Jupiter*, *Mars*, and *Romulus* which he himſelf otherwiſe ought to have performed, calling the firſt *Flamen Dialis*, the other *Flamen Martialis*, and the laſt *Flamen Quirinalis*, from *Romulus*, which was often called *Quirinus*,

Sive quod haſta quiris priſ is eſt dicta Sabinis,
Bellicus at telo venit in aſtra Deus.
Sive ſuo regi nomen poſuere Quirites,
Seu quia Romanis junxerat ille Cures.

[o] Roſin. antiq. lib. 3. c. 15.
[p] Rex Anius Rex idem, hominum Phœbique ſacerdos Vir,

In

In proceſs of time twelve others choſen from the Commons were added unto theſe, but with this note of diſtinction, that the three firſt were had in great eſteem, and were called *Flamines majores*, high Prieſts; the other of leſs note called *Flamines minores*, inferiour Prieſts; the chief of all was the *Flamen Dialis*, *Jupiters* high Prieſt. And Whereas every one did wear a certain bonnet in form of a mitre, which ſometimes was called *Pileum*, ſometime (by the figure *ſynechdoche*) *Apex* (whereas *Apex* doth properly ſignifie onely the top of the bonnet) [q] none might wear *Albo-galerum*, *id eſt*, a white mitre, but onely *Jupiters* Prieſt, and that was to be made of a white ſheep skin, after the ſheep had been ſacrificed. Whatſoever malefactor could eſcape unto this Prieſt, he ſhould not be puniſhed that day. None was eligible into this office, but he that was married: neither was it lawful for him to marry twice, but if his wife died, *Flaminio abibat*, *i. e.* he reſigned his ſacerdotal office. To him was permitted a rich robe of ſtate, and a curule chair; none might fetch fire out of his houſe, unleſs it were to perform ſome ſacrifice therewith; [r] none might barbe or pole him but a free-man, and that with braſen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe Time added many other *Flamines*, namely [s] every god one, yea ſometime thoſe threeſcore Pariſh-Prieſts which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had alſo their *Flamines*. [t] Moreover we muſt note that thoſe Prieſts wives were called *Flaminicæ*; Their miniſters (for they were wont when they went to ſacrifice to take a boy or a maid with them) *Flaminii*, or *Flaminiæ*: and the chief *Flamens* dwelling houſe was called *ædes Flaminea*, or *Flaminia*. But as it ſeemeth probable, *Num a Pompilius*, and ſo the other Kings ſucceeding him, did ſtill reſerve their right and authority in holy matters ſo far, that they would inſtruct other inferiour Prieſts, yea and ſpecially perform ſome ſpecial ſacrifices themſelves

[q] Alex. Gen. dier. l. 6. c. 12.

[r] Serv. Æn. lib. 1.

[s] Feneſt de ſacerd. cap. 5.

[t] Alex. Gen dier. l. 6c.

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q Alex. Gen. dier. l. 6. c. 12.

r Serv. Æn. lib. 1.

s Feneſt de ſacerd. cap. 5.

t Alex. Gen dier. l. 6c.

themſelves: whereupon after that the Kings authority was abrogated amongſt them, then that theſe ſacrifices might be continued, they choſe a certain Prieſt, which they preferred before the *Flamen Dial*, but judged him inferiour to the *Pontifex maximus*, or Arch-Pontifex, and him they called *Rex ſacrificulus*, and *Rex ſacrorum*, the King-Prieſt. To him once every year the veſtal Nunnes repaired, and uſed this form of words, [n] *Vigilaſne Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy days, and to provide all things neceſſary for publike ſacrifices. He was to inſtruct thoſe that ſought unto him, the cauſes of the holy-days, and to tell them what was lawful and unlawful every month, and upon the fifth of the *Ides* of January he ſacrificed a *Roman* to *Janus*. He was likewiſe wont to offer up a ſacrifice in the *comitium*, or great hall of juſtice, which being finiſhed, he ran as faſt as he could out of the market-place without delay: His wife was called *Regina ſacrorum*, the Queen-Prieſteſſe, and was wont upon the Kalends of every moneth to ſacrifice a Porker, or a Lamb in her place, in the honour of *Jano*.

[n] Serv. Æ. 10.

Cap. 10.

De Marte, ſive Mavorte, & Saliis Palatinis Marti dicatis.

Mars, otherwiſe called *Mavors* by the figure *Epenthesis*, as we ſay *Induperator* for *Imperator*, was reputed the god of war, and ſo *Metonymicus* is uſed for war, as *vario Marte pugnatum eſt*, the battle was doubtful; *proprio Marte*, by ones own ſtrength, and labour. He was the ſon of *Juno* only, without company of her Husband: for when *Juno* was greatly diſpleaſed with her ſelf, that *Jupiter* by ſtriking his head, without the company of a woman did bring forth the Goddeſſe *Minerva*, ſhe by the counſell

counſel of the Goddeſs *Flora* touched a certain flower in the field of *Olenias*, by vertue whereof ſhe immediately conceived the God *Mars*. This God, by reaſon of his dominion in war the Romans painted fiery, ſometimes in his charriot, ſometimes on horſeback, with a Javelin in one hand, and a Scourge in the other. In old coyns there was ſometimes the picture of a cock joyned with him, to ſhew the vigilancy, and carefulneſs that ſouldiers are to uſe. He was called *x gradevus a gradiendo*, from marching in battel againſt his enemies. He had a Temple without the City, whence he was called *extramur aneus*. *y* Neer unto this Temple without the gate *Capena* did ly a ſtone of great note which upon great droughts the people would bring into the city, and preſently Rain would follow; whereupon it was called the Rain-ſtone, *Lapis manalis, à manando*. *Numa Pompilius* in the honour of *Mars*, ſurnamed *Gradivus*, ordained twelve dancing Prieſts, called *Salii à z ſaliendo* from dancing, which number afterward we finde to have been doubled by *Tullus Hoſtilius*, in the war againſt *Fidena*, a town of the Sabines, The former 12 being called *Salii Palatini*, from the Palatine Mount, where they did begin their maurisk: the other *Collini*, from the hill where there Chappel ſtood; *a* and ſometimes *Quirinales*: and ſometimes *Agonales*: ſo that the whole Colledg contained 24 Prieſts. *b* The occaſion of their firſt inſtitution was this: Upon a certain time, in the raigne of *Numa*, the plague, or ſome other contagious ſickneſs was very hot amomg the *Romans*, inſomuch, that no ſacrifice, or holy offering could remove it: at that time a certain braſen Target, or Scutcheon called in Latine *anea pelta*, or *ancile*, big at both ends, but cut like an half Moon on each ſide fell from heaven into *Numa* his hands: with a certain voice promiſing all health unto *Rome*, ſo long as that braſen Target could be kept ſafe. Whereupon *Mamurius*, a cunning workman, by the appointment of *Numa*, made eleven other *ancilia*, ſo like the firſt, that neither could be known from the

x Roſin. ant. lib. 2. cap. 10.

y Roſin. ibid.

z Plutarch in Numa.

a Dion. Halic. carn. lib. 2.

b Plutarch. in Numa.

other (to the intent that if any ſhould be ſo wicked-minded as to ſteal it, he might fail of his purpoſe by miſtaking one for another.) Theſe twelve Prieſts had the cuſtody and keeping of them committed to their charge, and in the Month of *March* every year they apparelled themſelves with a Party-coloured coat, called *tunica verſicolor*, girt cloſe to their body, with a belt, or ſword-girdle, and a breſt-plate of harneſs called *æneum tegmen*, upon that, and a robe of eſtate, called *trabea*, clapſed about them upmoſt of all. Upon their heads they did wear *apices, id eſt*, Caps [e] much like unto the *Perſian* Bonnets, called in Greek κυβασίαι, or τιάραι. They did ſomewhat reſemble our head pieces in war, made cloſe unto the head, with a creſt of cloth upon the top, whence ſome have called them *Galleas*. They being thus apparelled, danced about the *Forum*, or market-place, and the Capitol, with ſhort ſwords by their ſides, a Javeline in the right hand, and their *ancile* in the other; uſing certain Songs, either of the gods, and thoſe they called *Saliares*, *Annalii*, *Junonii* and *Minervii*; or of men, and thoſe they called *axamenta*, becauſe in thoſe Songs they did *axare*, *id eſt*, nominate and call upon the names of ſome well-deſerving men: as *Mamurius* which made thoſe eleaven Scutcheons, was often called upon in thoſe Songs. Upon their feſtival days they had exceſs of cheer, whence [d] *Horace* hath uſed *saliares dapes*, to ſignify dainty fair.

[e] Dion. Halicarn. lib. 2.

[f] Horat. lib. 1. Ode 37.

Cap. II.

De Fœcialibus, & Patre patrato.

THeſe *Fœciales* were Officers at Arms, or Heralds, to denounce war, or proclaim peace, appointed thereunto at firſt [e] by *Numa Pompilius*. [f] The chief part of their Office was to diſſwade the *Romans* from moleſting any confederate Nation with unjuſt warre: and if any confederate

[e] Pomp. Lætus de ſacerd.

[f] Dion. Halicar. lib. 2.

confederate Nation did offer injury unto the *Roman* people then did theſe *Fœciales*, go as Embaſſadors unto them, perſwading and exhorting them to yield the *Romans* their right: but if they continued thirty days obſtinate, refuſing to yield to that which ſhould be juſt and right, then did they preſently denounce war againſt them, caſting forth a dart in token thereof, which denunciation was ᵍ called *clarigatio, à clarâ voce quâ utebantur Fœciales.* Others are of opinion, that whenſoever war was denounced. this Herald at Arms ſhould ᵇ turn looſe a Ram unto their enemies borders; ſignifying thereby, that their fields ſhould ſhortly become paſture for the *Romans*: from which cuſtome we ſay of one that challengeth another into the field, *Arietem emiſit.* Again if the *Imperator*, or Lord-general, had done ought againſt his Oath, theſe *Fœciales* by their ſacrifice did avert the wrath of the Gods from him. The chiefeſt of them was called *Pater-patratus*, a perfect father: for he only could be *Pater-patratus*, which had both children of his own, and his father alſo alive. They were called *Fœciales à fœdere faciendo*, from making a league or peace between Nations. This league, which we in Latine do call *Fœdus*, the *Romans* in old time ⁱ did call *Fides*, as *Ennius* and *Pighius* witneſs: whence theſe *Fœciales* were tearmed alſo *Fidei Flamines*.

ᵍ Serv. Æn. lib. 2.

ᵇ Vid. Eraſm. Adag.

ⁱ Pighius Septim. lib. 1.

Cap. 12.

De Duum-viris, & Decem-viris, & Quindecem-viris, Sacris faciendis, item de Sibyllis.

THis Prieſt-hood had its firſt inſtitution from *Tarquinius Superbus*, whoſe office was as well to expound, as to keep the Oracles of thoſe ten Propheteſſes ſo famous throughout the world, called *Sibyllæ*. Concerning whom ᵏ *Munſter* hath theſe words: In times paſt there came

ᵏ Munſter in ſua Coſmog. lib. 2.

a ſtrange woman to *Tarquinius* the King, offering nine books full of the *Sibellyne* Oracles to be ſold: but *Tarquinius*, thinking the books too deer, refuſed to buy them; the woman departing, burned three of theſe books, and came the ſecond time unto *Tarquinius*, demanding as much for thoſe ſix books, as formerly ſhe had done for the nine: *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as ſhe asked at firſt for all nine. Then began *Tarquinius* more ſeriouſly to bethinke himſelf thereof, and ſent for his *Augures*, asking counſell and advice of them. And they underſtood, by certain ſignes obſerved, that the King had refuſed ſome ſpecial goodneſſe ſent from the Gods, and for the books that remained, they adviſed that the woman ſhould have what ſhe asked: As ſoon as the woman had delivered her books, ſhe preſently vaniſhed, and was never ſeen again; onely warning them, to keep the books as ſafe as poſſibly they could. For the ſafe keeping of theſe *Tarquinius* choſe two of the Noble men, or *Patritii* calling them *Duum-viri*, appointing them, as well by ſtudy to expound, as with care to keep thoſe Oracles. In proceſs of time, the people obtained, that ten ſhould be appointed to this office, [l] five of them being choſen out of the Commons, and five out of the Nobles: and then they were called, the *Decem-viri*. Afterward by *L. Sylla* as it is thought, five more were added, ſo that they were then called, the *Quindecem-viri*: nay the number was encreaſed by *Sylla* unto forty, [m] as *Servius* thinketh, but ſtill called by the name of *Quindecem-viri*. Of theſe women that had the ſpirit of prophecie, ten were very famous: the firſt was called *Perſica*, the ſecond *Libyca*, the third *Delphica*, the fourth *Cumæa*, the fifth *Erythræa*, the ſixth, *Samia*, the ſeventh *Cumana*, the eighth *Helleſponta*, the ninth *Phrygia*, the tenth *Tiburtina*: They all prophecied of the incarnation of Chriſt. The place where theſe books were kept, was within

[l] Feneſt. de ſacerd. c. 13

[m] Serv. Æn. lib. 6.

within the Capitol under ground in a cheſt of ſtone, where they remained ſafe until the burning of the Capitoll, at which time they alſo were burned. Notwithſtanding many of the prophecies have been known, partly by tradition, and partly being taken out of other copies in other countries. One of the prophecies concerning our Saviour Chriſt, was uttered by *Sybila Delphica* in manner as followeth: [u] *Naſcetur Propheta abſq; matris coitu ex utero ejus*, that is, There ſhall be a Prophet born without any copulation of the mother, even out of her womb. It was ſpoken at *Delphos*. All their prophecies were of that certainty, that when we would aver any thing to be undoubtedly true, we uſe to ſay, it is *Sybillæ folium*, as true as *Sybilla's* Oracles. The *Cumæa Sybilla* did write her Oracles at the mouth, or entrance of her cave in leaves of trees, which the fierceneſs of the winde did oftentimes ſo ſcatter, that they could hardly be brought in order again: inſomuch that when we would ſhew the great difficulty of bringing things in order, we may uſe [o] *Politian* his words, *Laborioſius eſt, quam Sibyllæ folia colligere*, it is eaſier to gather *Sibylla's* leaves. This name *Sibylla* is not a proper name, but an appellative, common to all women endowed with the ſpirit of prophecie, taking their denomination from [p] σιὸς, which is in the *Æolick* dialect the ſame that Θὸς, *id eſt*, God, and βελὴ, *id eſt*, counſel, becauſe they did open and declare the counſel and determination of God unto the people. It appertained alſo unto theſe *Quindecem-viri* above mentioned, to ſee that ſacrifice, and divine ſervice, that ſupplications, and proceſſions, expiations, and all ceremonial rites were duely performed.

[u] Munſter in ſua Coſmog. lib.

Credite me vobis folium recitare Sibyllæ.

[o] Epiſt. lib. 2. epiſt 1.

[p] Serv. Æn. lib 6. σιὸς enim Deus, non Θὸς: & omnium non βελὼ ſed βυλὼ appellabant. Æolico genere ſermonis. Lact. de falſa religione lib. 1. cap. 2.

Cap. 13.

De Bonâ Deâ, & Sacris ejus.

THis Goddeſſe which is ſo famous by the name of *Bona dea*, is the Globe of the earth: which is therefore termed *Bona dea*, the good Goddeſs, becauſe we reap ſo many good things from the earth. She is called alſo *Ops*, the helping Goddeſs, *ab ope*, from help, becauſe by her help we live. She is called *Fatua*, and *Fauna*, i.e. the Goddeſs of ſpeech, becauſe young children do never ſpeak until they are able to go, and ſo have touched the earth. The *Gracians* called her γυναικία θεὰ, the female Goddeſs, becauſe that no Male might be admitted to her ſacrifices; nay the very pictures of men were at that time to be covered. The inner room where her ſacrifices were, was called τὸ γυναικεῖον the place for womens aſſemblies. ¶ Thoſe that were chief in theſe ſacrifices, were the Veſtal Nuns. This good Goddeſs was ſuppoſed to be the wife of *Faunus*, and upon a time to have been taken drunk with wine by him: for which fault *Faunus* is ſaid to have beaten her to death with rods of Mirtle tree; but afterward being ſorry for that he had done, in amends he made her a Goddeſs, and as it were ever after deteſting the Mirtle tree, he hallowing all other hearbs and flowers to be uſed in theſe ſacrifices, forbad the Mirtle tree. Some ſay ſhe was ſo chaſt, that ſhe was never ſeen by any man but by her husband; and in reſpect of her chaſtity the Mittle tree is forbid, becauſe it was conſecrated to *Venus*: but whereas in this ſacrifice they uſed wine, they called it not by the name of wine, but milk or honey; [r] whence they called the veſſel wherein the wine was put, *amphoram mellariam*, *id eſt*, the honey veſſel. This ſacrifice became very famous by reaſon of *Clodius*, who being in love with *Pompeia*, *Julius Cæſars* wife, came unto theſe ſacrifices in womans apparel and was

q Cic. orat de Aruſp. reſponſis.

r Alex. Genial. l. 6. c. 8.

was found out by *Aurelia*, *Julius Cæſars* mother. This *Clodius* became ſo infamous for this, and other his adulterous pranks, that he occaſioned a common proverb amongſt the *Romans*, *Clodius accuſat Mœchos*, anſwerable to which our Engliſh proverb is, One theefe accuſeth another.

CAP. 14.

De Cybelle, & Saſerdotibus ejus.

THe Goddeſs *Cybele*, or rather *Cybelle*, was in her infancy expoſed unto wilde beaſts, upon the hill *Cybellus*; where ſhe being nouriſhed by the wild beaſts, afterward became a woman of admiral beauty, and being found by a ſhepherds wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in natural gifts, and was the firſt that uſed a Taber and pipe, and Cymbals among the Greeks. Moreover ſhe tenderly loved children, and therefore was called *magna mater*: ſhe was alſo called *mater deorum*, the mother of the Gods;

Ipſa deum fertur genetrix Berecynthia. Virg.

She was called *Rhea*, *á ῥέω* to flow, becauſe ſhe doth flow and abound with all kind of goodneſs. She was alſo named *Peſſinuntia*, from the City *Peſſinus* a Mart town in *Phrygia*, where ſhe had a Temple. Moreover, ſhe was called *Berecynthia*, from the hill *Berecynthus* in *Phrygia*, where ſhe was worſhipped. Her Prieſts were called *Galli*, and their chief governour *Archi-Gallus*: they took their name from a certain river in *Phrygia*, called *Gallus*; of which whoſoever drank, he became ſo mad, that he would preſently geld himſelf, (as in truth all her Prieſts were enjoyned to geld themſelves with a fiſh ſhell) the original of which cuſtome is rendered thus: *Cybelle* loved a young man of *Phrygia* called *Atys*, and him ſhe appointed chiefe overſeer for her ſacrifice

(Pomp. Læ. de ſacerd.

fice upon condition that he would keep himself chast perpetually: But he not long after defloured a Nymph, for which fact, *Cibelle* bereft him of his wits and understanding, so that he in his madness did geld himself, and would have killed himself also *t* had not the gods in their commiseration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Priests were gelded. Every yeer the *Prætors* did sacrifice unto this Goddess. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, chosen for that purpose: which according to the manner of their countrey being apparralled with a party-colloured garment, called in Latine *Synthesis*, or *Amictus variegatus*, and carrying the picture of their Goddess about with them in the streets, they struck their breast with their hands, keeping tune with the Tabers, Pipes, and Cimbals, which other people following plaid upon. The Priests were also called *Corybantes* from one *Corybantus*, which was one of her first attendants; and hereupon we call the Cymbal *æra Corybantia*. In this manner dancing about the streets, they begged money of the people whom they met: and hence were they named *Cibelle* her collectors, or her *circulatores, id est*, Juglers. Some called them μητράγυρταὶ from μητηρ, which in this place signifieth *Cibelle*, called the great mother, and ἀγύρτης a begger or gatherer of alms. *u* Others have called them *Mitricia*: But by what name soever they were called the place was so infamous by reason of their drunkenness, and uncivility used at these times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleium*, *Cibelle* her Jugler. Neither was it lawful for any free-born to undertake that office.

t Cybellius Ætys Exuit hac hominem truncoq; induruit illo. Ov. Met.

u Rosin. ant. l. 3. cap. 27.

CAP.

Cap. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly translated a Bishop or Prelate, being called *Pontifices* in Latine, as also Pontifies in English, from one part of their office, which was to have the oversight of a great wooden bridge, called in Latine *Pons sublicius*, being so great that Carts and wains might pass over it; having no arches to uphold it, but onely great piles and posts of wood: ✕ and that which is most remarkable in it, was that it was joined together onely with wooden pinnes, without any iron at all. Others are of opinion, that they were termed *Pontifices quasi potifices*, from *potis* and *facio*, of which opinion *Lucan* seemeth to be, according to that, *Pontifices sacri quibus est commissa potestas* Concerning the ✓ number of them, onely four were appointed by *Numa*, all which then were to be chosen out of the *Patricii*: afterward four more were added out of the Commons. These were called *Pontifices majores*, or chief Pontifies, to distinguish them from seven other, which afterward *Sylla* added, and ✁ called them *Pontifices minores*, inferiour Pontifies. The whole Company of them was called the Colledge of Pontifies. This colledge is priviledged from all allegeance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all questions concerning religion, as well betweene their Priests as between private men: they had authority to punish any inferiour Priest, if he either detracted or added unto those Religious Rites which were prescribed him. They had their great Pontifie, whom they called *Pontificem Maximum*. These Pontifies were wont to exceed in their diet, insomuch that when the Romans would shew the greatnesse of a feast, they would say it was *Pontificia cœna*,

✕ Plutarch in Numa.

✓ Festus, de sacerd.

✁ Rosin. ant. l. 3. c. 22.

id est, according to our Englisſh phraſe, a feaſt for an Abbot. *Cœna adjicialis* is taken for the ſame. *a Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould rather be printed, *Cœna aditialis*, underſtanding hereby a ſolemne feaſt made by Magiſtrates in *aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magnit. Rom. cap. 9.

Cap. 16.

De Epulonibus.

THe pontifies in old time appointed three men, whom they called *b Trium viros Epulonum* (from *Epulum* a feaſt) to have the overſight of the feaſts made at ſacrifices; afterward by reaſon of two twice added, they were called firſt *Quinque-viri*, and at length *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3. cap.

Cap. 17.

De Titiis.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed ſooth-ſaying; They were called *Titii c* from the name of the birds which they obſerved: which in Latine were called *Titie*.

c Pancirollus lib. rerum deperditarum c. de mole Hadriani.

Cap. 18.

De Virginibus Veſtalibus.

NEere unto *Caſtor's* Temple, ſtood the religious houſe or Nunnery, dedicated to the Goddeſſe *Veſta*: where at the firſt were four, after ſix Virgins, or Votaries, elected

elected, whoſe office was chiefly to keep the ſacred fire; the extinction whereof proved ominous and did portend ſome evil event ſhortly to happen. And therefore for their negligence herein as for all other ſmall faults, they being had into a dark corner, ſtripped naked, and a curtain drawn half way over them, the chief Pontifie ſcourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the ſun-beams; for which purpoſe they had certain inſtruments named [c] σπαρεῖα, which were formed in the manner of a *pyramis*, but hallow; ſo that the beams being collected within the circumference, and meeting in the *vertex*, did eaſily kindle any combuſtible matter put into it; but chiefly if the matter was of black colour; becauſe as Philoſophy teacheth, a dark colour doth congregate, or collect the beams, whereas whiteneſs doth diſperſe them. A ſecond part of their office was to work reconciliation between parties offended, as appeareth by [d] *Suetonius*, where we may read, that by their interceſſion *Sylla* was reconciled to *Caſar*. They were choſen into this place between the ſixth and the eleventh yeer of their age: and they were to remain in this Nunnery thirty yeers ſpace, ten yeers to learn their ceremonies and myſteries, 10 yeers to exerciſe them, and ten yeers to inſtruct others: within which ſpace if they had ſuffered their bodies to be defiled, they were to undergo that fearful puniſhment * afore mentioned. But theſe 30 yeers being exſpired, marriage was lawful for them; ſo that they laid aſide their ſcepters, their fillets, and other their Sacerdotal ornaments. Notwithſtanding thoſe which did marry, in the end died fearful deaths: whereupon they choſe rather to abſtain commonly. The *Romans* had them in great honour, ſo that they never walked abroad, but with an iron ſcepter in their hands, and whatſoever malefactor met them (if the Nun would take her oath it was by chance) he eſcaped puniſhment. They were named *Veſtals* from their goddeſſe *Veſta*, which word (as [e] *Munſter* writeth) is derived

[c] Plutarch in Numa.

[d] Suet. in Julio.

* Vid. ſup. p. 14.

[e] Munſter in Coſmog. l. 2. c. 9.

ved from the Hebrew *radix* ſignifying fire. The eldeſt was called *Maxima veſtalis virgo, id eſt*, the Lady Prioreſſe, or chief governeſs.

Cap. 19.

De veterum ſacrificiis & ritu ſacrificandi.

WHatſoever was burnt or offered up unto the Gods upon an Altar, it had the name of a ſacrifice: and ſometimes it was called *victima*, *quod victa ad aras ſtabat*, becauſe the beaſt to be ſacrificed ſtood bound unto the Altar ſometimes, *Hoſtia*, from an abſolete verb *Hoſtio*, which is to ſtrike: becauſe certain under Officers called in Latine *Popæ* (ſtanding by the Altars, all their upper part naked, and a Lawrel garland upon their head) did *Hoſtiare victimam, id eſt*, ſtrike down and kill the ſacrifice. Others are of opinion, that this name *Hoſtia* is taken from *Hoſtis*, an enemy, according to that of *Ovid*, *Hoſtibus à domitis hoſtiæ nomen habet*; becauſe either before war, to procure the Gods favour; or after war, in token of thankfulneſſe, they did *hoſtium ferire, id eſt*, offer up the ſacrifice. The ſecond difference of ſacrifices have been occaſioned in reſpect of the time, and ſo they have been called *Præcidaneæ*, or *ſuccidaneæ*, *quaſi præcedaneæ & ſuccedaneæ*. Thoſe ſacrifices which were offered up the day before any ſolemn ſacrifice, were called *Præcidaneæ hoſtiæ*, fore-ſacrifices, as we Engliſh *præcurſirem*, a fore-runner: which fore-ſacrifices, if by any token they found unlucky, then would they offer up a ſecond ſacrifice, which they termed *hoſtium ſuccidaneam*; and becauſe theſe ſecond ſacrifices were to be offered onely inſtead of the other, when they were unlucky or faulty, hence hath *Plautus* uſed this ſpeech, *meum tergum ſtultitiæ tuæ ſubdes ſuccidaneum*? Muſt I be whipped for thy fault? The manner of ſacrificing was as followeth; Some certain daies before any

ny sacrifice was to be performed, the Priest was wont to wash his whole body, *f* especially his hands and feet, which if he had not washed, the sacrifice was accounted polluted: and alluding unto this custom, we say, a man doth *Accedere ad rem illotis manibus*, or *illotis pedibus*, as often as he enterprizeth any businesse without due reverence or preparation thereunto. Μηδεπόλ' ἐξηῦς δν τὶ λείβειν αἰθοπα οἶνον
Κερσὶν ἀνίπλοισιν. *Hesiod.* ἐ γὰ καὶ ἠμὲῤ.

f Vide Erasm. Adag.

Moreover, the Priest was to abstain from his Marriage-bed, as likewise from divers kinds of meats, and at the time of his going to sacrifices, either himself, or some inferior Sexton going before him with a rod or wand in his hand (called *commentaculum*) *g* used this form of words unto the people, *Hic age*, attend this you are about: which custome seemeth to have had its original from the *Grecians*; For before the time of sacrifice, the Grecian Priest used almost the like speech unto his people, as, ἐς τί ὅ, *id est*, who is here? the people answered πολλοὶ καγαθοὶ, *id est*, many men and good. After this preparation, then did the Priest, laying his hands upon the Altar rehearse certain Prayers *h* unto the God *Janus*, and the Goddesse *Vesta*, because the Romans were perswaded, that without their intercession, they might not have accesse unto the other Gods: his prayer being ended, then did he lay *i* upon the beasts head a little corn, together with a cake made of meal and salt, called in Latine *Mola*, *k* *Mola erat far tostum, sale aspersum.* From this ceremony, the act of sacrificing hath been termed *Immolatio.* After this the Soothsayer drank wine out of an earthen or wooden Chalice, called in Latine *Simpulum*, or *Simpuvyum.* It was in fashion much like our Ewers, when we pour water into the Bason. This Chalice was afterward carried about to all the people, that they also might *libare*, *id est*, lightly taste thereof, which Rite hath been called *Libatio.* Now every one having tasted thereof, the rest of the Wine with Frankinsence mixt in it, was to be powred upon the beasts head, *m* between the

g Plutarch. Numa.

h Serv. Accl. lib. 1.

i Cancirollus lib. rerum deperdit. c. de sale Ammoniaco.

k Textor in sua officina. Sparge salsa cultra tauorum mola. Sen. Oedip. Act 2. scen. 2.

l Pancirol. lib. rerum deperdit. cap. de Ammoniaco sale.

m Media inter cornua fundit. *Virg. Æneid.*

hornes, one crying out with a loud voice; *Macta eſt hoſtia, id eſt, magis aucta*, more increaſed and made more pleaſing unto the gods; as *Virgil* ſaith, *Macte novâ virtute puer, id eſt*, O good childe which increaſeſt in virtue. And hence, even from this term, we may conjecture, that the word *Macto*, which ſignifieth to kill, and ſometimes to ſacrifice, hath had its original, becauſe they did immediately after that voice, *mactare hoſtiam*, that is, ſlay the ſacrifice; and that was done in this manner. [a] Firſt the Prieſt did pluck off ſome of the beaſts hairs between the horns, and caſt them into the fire, calling them his *prima libamina, id eſt*, his firſt offerings: Then did he, turning his face toward the Eaſt, draw a long crooked knife upon the beaſts back, commanding his under officers which I called *Popæ*, (others *Cultrarii*, from their knife; *Victimarii*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroak, often uſed this word *Agon*, for *Agone, id eſt*, muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flea or skin the beaſt, others waſhed it. Anon, ſome Sooth-ſayer or Prieſt, did obſerve the entrals, turning and winding them with a knife, which was called *Seceſpita, à ſecundo*: for he might uot touch them with his hand, they conceiting, that if the ſacrifice had proved polluted, his hand would then have periſhed. Now after the Soothſayer or Prieſt had ſufficiently turned the entrals, and found no ill token therein, then did thoſe *Popæ*, or Church-butchers, cut off from every bowel ſome portion, which after they had rolled in barly meal, they ſent it in baskets to the Prieſts, and the Prieſts taking it up into a broad charger or platter, called *diſcus*, or *lanx*, laid it upon the alter and burnt it, and [b] this was properly termed *litare* or *Reddere, i.e.* to ſatisfie by ſacrifie or to pay the ſacrifice which was owing unto the gods. After that the portion laid out for the gods had been burnt, then did all the people repair unto a common feaſt; where, as they were eating, they ſung Hymnes, and Songs, in the praiſe

[a] Roſin. ant. l. 3. c. 33.

[b] Ioac. Camerar. pro Flac.

praiſe of their Gods, and playing on Cymbals, they danced about the altars, intimating thereby, that there was no part of their body, but ſhould be imployed in the ſervice of their Gods. Now until all their Ceremonies and Myſteries were finiſhed, it was not lawfull for any to taſt of this feaſt: inſomuch that we ſince have uſed to check a glutton, or greedy-gut, which cannot abſtain from his meat till grace be ſaid, in this manner, *Sacra haud immolata devorat.*

Cap. 20.

De Nuptiis, & nuptiarum renunciatione.

SEeing that marriages, and burials, have ſuch dependance upon the Prieſts, it will not be amiſs to conclude this Section, with two Chapters, briefly opening the ceremonies of both. Before we come unto the ſolemn Ceremonies, uſed by the *Romans* in their marriages, we will firſt ſhew the manner of their contracts, which were called by the *Romans* *a Sponſalia à ſpondendo*, becauſe in their contracts, each did promiſe other to live as man and wife. Now the manner of contracting was commonly thus: They had for the greater ſecurity, write down the form of the contract upon tables of Record, as appeareth by *Juvenal. Sat. 6.*

a Salmuth. in Panciro. lib. rerum deperdit. cap. de nuptiis.

Si tibi legitimis pactam, junctamq́, tabellis
Non es amaturus----

Theſe tables were alſo ſealed with the ſignets of certaine witneſſes there preſent, who were termed from their act of ſealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothſayer, and the woman another, with whom firſt they would conſent. Whence *Juuenal, Sat.* 10.

----Veniet cum ſignatoribus auſpex.

The token or ſigne which theſe Soothſayers in time of obſerving accounted moſt fortunate, was a Crow: *b Ea enim cornicum*

b Anlex. c. lib. 2.

cornicum ſocietas eſt, ut ex duobus ſociis alterâ extinctâ, vidua altera perpetuò maneat. The man alſo gave in token of good will, a Ring unto the woman, which ſhe was to wear upon the next finger unto the little of the left hand, becauſe unto that finger alone, proceedeth a certain artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its derivation *à nubo*, [d] which verb in old time ſignified to cover: the cuſtome being, that the woman ſhould be brought unto her husband with a [e] yellow vail (called *Flammeum*) caſt over her face. Again, becauſe of the good ſucceſſe that *Romulus*, and his followers, had in the violent taking away of the *Sabine* women, [f] they continued a cuſtom, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſom of her mother, or the next kin. She being thus taken away, her husband did diſſever and divide the hair of her head with the top of a ſpear, wherewith ſome Fencer formerly had been killed. This Spear was called by them *Haſta cœlibaris*, [g] and the Ceremony did betoken, that nothing ſhould disjoin them but ſuch a Spear, or ſuch like violence. The next day after the marriage, a ſolemn feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry, this feaſt they called *Repotia*. We muſt note, that [h] three manner of waies a woman became a mans lawful wife: *uſu, confarreatione, coemptione.* A woman became a mans lawful wife, *Uſu, i.* By preſcription, or long poſſeſſion if that ſhe were wed with the conſent of her overſeers, and ſo did live with the man, as with her lawful husband, a whole yeers ſpace, *nullo interrupto uſu, i. e.* [i] ſhe being not abſent from him three nights in the whole year: and ſome have thought, that the counterfeited violence, in taking away the Maid from her friends, was uſed onely in this kind of marriage. A woman became a mans wife *confarreatione, id eſt*, by certain ſolemnities uſed before a Pontifie, or chief Biſhop, when the woman was given unto the man uſing a ſet form of words, ten witneſſes being preſent and a ſolemn ſacrifice

c Aul. Gel.

d Roſin. ant. l. 5. c. 37.

e Plin. l. 21. c. 8.

f Sig. de jur. Rom. l. c. 9.

g Salmuth. in Pancirol. lib. rerum deperdit. cap. de nuptiis.

h Boeth Topicor. 2 Vid. Cœl. Rhod. l. 28. c. 17.

i Sig. de jure Rom. l. 1. c. 9.

ſacrifice being offered, at which the couple married ſhould eat of the ſame barly cake, which formerly had been uſed in the ſacrifice. Which ſacrifice was termed, *à farre, confarreatio*; and the marriage it ſelf *Farracia*, [k] and ſometimes *ſacra* ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *coemptione, id eſt*, by buying and ſelling, when the woman did under a feigned forme of ſale buy her husband, by giving him a piece of coyn. *Viteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant: atq; unum quidem quem in manu tenebant, tanquam emendi cauſa marito dare.* [l] To theſe three ſome teach, that a fourth ſort of marriage was in uſe among the *Romans*; namely; when a woman became a mans wife, *ſortitione*, by a kind of lottery: and of this they ſay, *Sueton* [m] ſpeaketh. [n] In that kind of marriage, which was *per coemptionem*, the man was not named by his proper name, nor the woman by hers; but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſt and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priſcus*: from whence ſprang a cuſtome among them, that the new married wife, when ſhe was brought home unto her husbands houſe, was to uſe this proverb; *ubi tu Caius, ibi ego Caia*, by which word ſhe ſignified that ſhe was now owner of her husbands goods, as well as himſelf: and therefore *Eraſmus* hath expounded that ſaying by theſe words; *ut tu dominus, ita ego domina*; [o] And ſhe that was thus married, *per coemptionem*, was properly called *Mater-familas*. [p] If any of theſe Ceremonies were omitted then was the marriage tearmed, *Nuptiæ inuptæ*, in which ſenſe we call our enemies gifts no gifts, Ἔχθρου δῶρα δῶρα. Theſe Ceremonies being ended, towords night the woman was brought home to her husbands houſe, with five Torches, ſignifying thereby, the need which married perſons have of five Gods, or Goddeſſes, *id eſt*, *Jupiter Juno*, *Venus*, *Suadela*, and *Diana*, who oftentimes is called *Lucina*, the reaſon of the name being rendred by *Ovid.*

[k] Cic. orat. pro Muræn.

[l] Sig. de jure Rom. li. c. 9.

[m] Suet. in Tib. c. 35.

[n] Cic. orat. pro Muræna, item. Fr. Sil. Ibidem.

[o] Cœl. Rhod. lib. 28 c. 17.

[p] Hieron. Ferarius in philippic. orat.

---Dedit hæc tibi nomina lucus,
Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the uſe of theſe Torches, was not only to give light, but to repreſent the element of fire: for no marriages were thought happy, which were not contracted *Sacrament ignis, & aquæ*: for which reaſon the cuſtome likewiſe was, to beſprinkle the new married woman with water, yea they did both in time of their contract touch water and fire provided for that purpoſe. The ſignification of this ceremony, ſome think to be thus: The fire, becauſe it is an active element, to repreſent the man: the water, becauſe it is paſſive to repreſent the woman. Others ſay that in the community of theſe two elements, was intimated the community between man and wife, of all other their goods and poſſeſſions, which was more fully declared in that fore-quoted proverb, uſed by the wife, *ubi tu Caius, ibi ego Caia*. The matter whereof theſe Torches were made was a certain Tree, from which a pitchy liquor did iſſue: It was called *Teda*, and thence have the Poets figuratively, called both the Torches, and the Wedding it ſelf *Tedas*. When the woman had been thus brought to the door, then did ſhe anoint the poſts of the door with oyle, [q] from which Ceremony, the wife was called *uxor quaſi unxor*. This Ceremony of anoynting being ended, the Brideman did lift her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſty ſhe would not ſeem to go without violence into that place, where ſhe ſhould loſe her Maidenhead. At her carrying in, all the company did cry out with a loud voice, *Talaſſio, Talaſſio*: for which cuſtome, [r] *Plutarch* allegeth many occaſions; this being one. Among thoſe who raviſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort, carrying away one of the faireſt women: which being known, certain of the citizens would have taken her from them, but they began to cry out, that they carried her to *Talaſſius*, a man well beloved

Pancirol. lib. rerum deperdit. cap. de nuptiis.

[q] Serv. Æn. lib. 4.

[r] Plutarch. vita *Pompeii*.

beloved among the *Romans* at which naming of *Talaſſius* they ſuffered her be carried away, themſelves accompanying her, and often crying *Talaſſio, Talaſſio.* From whence it hath been continued a cuſtome among the *Romans*, ever at their marriages to ſing *Talaſſio, Talaſſio*, as the Greeks did *Hymen Hymenæe.* From this cuſtome of leading or bringing home of the new married Bride, commeth that Comical phraſe, *Ducere uxorem*, to marry a wife. She being thus brought home, received the keyes of her husbands houſe, whereby was intimated, that the cuſtody of all things in the houſe was then committed unto her. *f* The marriage bed was called, *Genialis lectus* as we may Suppoſe, *quaſi Genitalis.* *t* Sometimes it was called, *Lectus adverſus, quòd hunc lectulum religioſè ſervari mos fuit, & in atrio collocari januæ ex adverſo, id eſt*, they placed this bed in the Court, directly oppoſite to their gate, keeping it as ſome religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers tearm, *Nuptialia dona.* *u* But *Cicero* expoundeth theſe *Dona Nuptialia*, to be certain tokens, which the husband ſent to his wife before the betrothing. If after the marriage, any diſcontent had fallen out between the man and his wife, * then did they both repair to a certain Chappell, built in the honour of a certain Goddeſſe, called *Dea viri placa, à viris placandis.* Whence after they had been a while there, they returned friends. We have thus ſeen the Rites and Ceremonies, which the *Romans* uſed in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements; which upon juſt cauſes were permitted. *x* There were two manner of divorcements the one between parties only contracted, the ſecond between parties married. The firſt was properly called *Repudium*, in which the party ſuing for divorcement uſed this forme of words, *Conditionetuâ non utar.* The ſecond was called *Divortium*, wherein the party ſuing for it, uſed theſe words *Res*

f Alex. Gen. dier. l. 2. c. 5.

t Lipſ. Elect. lib. c. 17.

u Vid. Fr. Sil. pro cluent.

* Sig. de jure Rom. l. 1. c. 6.

x Roſin. ant. l. 5. c. 38.

tuas tibi habeto: vel res tuas tibi agito. Both theſe kinds were tearmed, *Matrimonii renunciationes*, renouncing or refuſall of marriage. Where we muſt note, that inſtead of this verb *renunciare*, divers good Authors do uſe this phraſe, *Mittere*, or *Remittere nuncium*: as *C. Cæſar Pompeiæ nuncium remiſit*, *C. Cæcar* hath divorced *Pompeia*. And alluding hereuuto *Cicero* ſaith, *virtute nuncium remiſit, id eſt*, he hath caſt off all goodneſs, he hath even divorced vertue. Secondly, we muſt note that this verb *Renuncio*, doth not onely ſignify to renounce or to refuſe, but many times in *Tully*, it ſignifyeth to declare or pronounce a Magiſtrate elected, as *Renunciare Conſulem Prætorem, &c.* The reaſon why in matrimoniall contracts, it ſignifyed to renounce, or refuſe, was becauſe in theſe divorces, they did oftentimes ſend to their wife *per nuncium*, by a meſſenger, ſome bil or ſcrole of paper containing the cauſes of the divorce. Moreover we are to obſerve, that in theſe divorces, the ceremonies were quite contrary to thoſe in marriages; the juſt cauſes of divorce, being foreſignified to the Cenſors, the marriage tables were broken, the dowry reſtored, the keys of the houſe taken from the woman and ſhe returned out of doors: all which ceremonies are at large treated of by *Th. Dempſter. l. 5. Antiq. Rom. cap.* 38.

[y] Eph. fam. l. 5

Cap. 21.

Quo apparatu, quibuſq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THe *Romans* in ancient time, when they perceived a body dying, had ſuch a cuſtome, that the next of the kin ſhould receive the laſt gaſp of breath from the ſick body, into his mouth, as it were by the way of kiſſing him: (to ſhew thereby how loath and unwilling they were to be deprived of their friends) and likewiſe ſhould cloſe the eyes of the party being deceaſed. Whence *Anna* ſaid unto her

her sister *Dido* now dying,

—*Extremus si quis super halitus errat,*
Ore legam.— Vir. Æn. 4.

And *Penelope* wishing that her son *Telemachus* might outlive her self, and his father, writeth to her husband in this manner, *Ille meos occulos comprimat, ille tuos.*

After the body had thus deceased, they kept it seven dayes unburied, washing the corps every day with hot water, and sometimes anointing it with oyl, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per callidos latices aliena undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.

In these seven days space, all the dead mens friends meet together now and then, making a great outcry or shout with teeir voices, hoping that if the dead body had been onely in a sound or sleep, he might thereby be awaked. This action was termed *conclamatio*, whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*; for this third conclamation or generall out-cry (which was alway upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carryed to burial, being invested with such a gown, as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heeles outward toward the street, according to that of *Persius*;

—*Tandemq; beatulus alto*
Compositus lecto, crasisq; lutatus amomis
In portam rigidos calces extendit—

Herewith accordeth *Homer* speaking of *Patroclus* his Funerall.

Ὅς μοι ἐγὶ κλισίη δεδαιγμένος ὀζεὶ χαλκῶ.
Κεῖτοι ἀν ἀ πρόθυρον τετθαμμήνες.—*id est.*

Qui mihi in tabernaculo confossus accuto ære
Jacet ad vestibulum conversus.

This ceremony was properly called *corporis collocatio*: and fast by this bed neere the gate also was erected an altar, called in Latine, [t] *Acerra*: upon which his Friends did every day offer incense untill the buriall: The gate in the outside was garnished with Cypresse Branches, if the dead man were of any wealth or note, for the poorer sort by reason of the scarcity of the tree, could use no such testimony of their mourning

[t] Alex. Gen. dier. l. 3. c. 7

[u] Lucanus.

[u] *Et non plebeios luctus testàta cupressus.*

In these seven days space, certain men were appointed to provide all things in readiness for the funerall; which things were commonly sold in the [x] Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signify as much as *capularis* an old decrepit man, ready for the grave. Upon the eight day a certain cryer in manner of a bel-man went about the Town to cal the people to the solemnization of the funerall in this forme of words; *Exequias* [y] *L. Tito L. Filio quibus est commodum ires. Jam tempus est. Ollus ex ædibus Effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a trumpeter went before all the company, certain poor women called *Præficæ*, following after and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a trumpet sounded before them; others had only a pipe; [z] *Senatoribus & patriciis tubâ, minoribus & plebeiis tibiâ canebant siticines*, this word *Sciticines*, signifying either a trumpeter or piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or chief Citizens, he was not carried out upon a bed, but in a coffin upon a Beer. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to beare the

[x] Alex. Gen. dier. l. 5. c. 26.

[y] Rosin. ant. l. 5.

[z] Alex. Gen. dier. lib. 3.

the corps, and becauſe the poorer ſort were not able to undergoe the charges of ſuch ſolemnities; thereupon were they buried commonly in the dusk of the evening, and hence *à veſpertino tempore*, thoſe that carried the corps were termed *veſpæ* or *veſpillones*. In the buriall of a Senator or chief Officer, certain waxen images of all his predeceſſors were carried before him upon long poles or ſpeares, together with all the enſignes of honour which he deſerved in his life time. Moreover, if any ſervants had been manumized by him, they accompanied the mourners lamenting for their maſters death. After the corps followed the dead mans children, the next of the kin, and other of his friends, *atrati, id eſt*, in mourning apparell. From which act of following the corps, namely *à ſequendo*, theſe funerall rites have bin termed, *Exequiæ*, as *Donat* hath obſerved upon that of *Terence*, *Funus interim procedit, nos ſequimur*. Which rites becauſe they were performed as debts due unto the party deceaſed, hence were they alſo called, *Juſta. Eò dicuntur juſta, quòd jure mortuis facitari debent à vivis. Polid de invent. l.6.c.9.* The corps being thus brought unto their great Oratory called the *Roſtra*, the next of the kin [a] *laudabat defunctum pro roſtris, id eſt*, made a funeral Oration in the commendation principally of the party deceaſed, but touching the worthy acts alſo of thoſe his predeceſſors, whoſe images were there preſent. The Oration being ended, the corps was in old time carried home again, in manner as it was brought forth.

[a] Suet. C. Jul. Cæſar, c. 6.

Sedibus hunc referente ſuis & conde ſepulchro.

But afterward by the law of the twelve tables, it was provided that no man beſides the Emperour and Veſtall Nuns ſhould be buried within the city, though ſome upon eſpeciall favour have obtained it. The manner of their buriall was not by interring the corps as in former times it had bin, but burning them in a fire, [b] the reaſon thereof being to prevent the cruelty of their enemies, who in a mercileſſe revenge would at their conqueſts digge up the buried bodies, making

[b] Salmuth in Pancirol. lib. rerum deperd. de exequiis.

king even the dead alſo ſubjects of their implacable wrath.) This fire before the burning, was properly called, *Pyra*; in the time that it burned, it was called, *Rogus*, [c] *quod tunc temporis Rogari ſolerent manes*; after the burning, then was it called *Buſtum, quaſi bene uſtum.* This *Pyra* was always built in form of a Tabernacle, as it is [*] above more at large to be ſeen; whether after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury, with a ſecond ſolemnity. The charges at funerals growing by this means to be doubled, the law of the 12 tables provided in theſe words, *Homini mortuo oſſa ne legito, &c.* that no mans finger ſhould be cut off, except he died either in the war, or in a ſtrange country. Where we muſt obſerve, that *lego* in this place doth ſignifie as much as *adimo* or *aufero*, in which ſence we call him *ſacrilegum, qui legit*, i. *qui adimit & aufert ſacra.* After the dead body had been laid upon the *Pyra*, then were his eyes opened again to ſhew him Heaven, if it were poſſible: [d] and withal an halfpenny was put in his mouth, they ſuperſtitiouſly conceiting that that halfpenny was *naulum Charontis*, the pay of *Charon* the ſuppoſed ferry-man of Hell, who was to carry mens ſouls in his boat over the *Stygian* Lake after their deceaſe. About this *Pyra* were firſt many boughs of Cypreſſe trees to hinder the evil ſent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averſe from the *Pyra*, did kindle the fire with a torch: After this, commonly certain Fencers hired for this purpoſe did combate each with other, till one of them was killed, they were termed *buſtuarii* from *buſtum.* The blood of thoſe that were ſlain, ſerved inſtead of ſacrifice to the infernall Gods, which kind of ſacrifice they termed, *Inferiæ.* [e] *Inferiæ ſunt ſacra mortuorum quæ inferis ſolvunter.* Anon after the body had been buried, his neareſt friends did gather up the aſhes and bones, which being waſhed with milk and wine, were put into certain Pitchers called *urnæ*: whence this word

[c] Serv. Æn. 5

[*] Sup. pag. 30.

[d] Alex. Genealog. lib. 3.

[e] Servius

word *urna*, is often used by the Poets, to signifie a Grave or Sepulchre, as

----*Una requiescit in urnâ*: *Ovid Met. lib.* 4.

Though properly *sepulchrum* was in old time, a Vault or arched roof, round about the Walls whereof were placed certain coffins called *loculi*, within which those former *urnæ* were laid up and kept, namely, two or three in each coffin. Now these funeral solemnities were commonly towards night, insomuch that they used Torches; these Torches they properly called *g funalia à funibus cerâ circundatis, unde & funus dicitur. h* Others are of opinion, that *funus* is so said from the Greek word φόνος, signifying death or slaughter. The bones of the buried body being thus gathered up, then did the Priest besprinkle the company with clean water thrice, and the eldest of the mourning women called *præficæ*, with a loud voice pronounced this word *Ilicet*, thereby dismissing the company, (the word signifying as much as *Ire licet*;) Then presently did the company depart, taking their farewell of the dead body in this forme of words: *Vale, vale, vale; nos te ordine quo natura permiserit sequemur.* If any of these ceremonie had been omitted *i* then was it termed *sepultura in sepulta*, in the same sense as *nuptiæ* formerly were termed *inuptæ*. The old and aged men were invited, after the burial, to a feast, or funeral banquet called *silicernium k quasi silicanium id est, cana supra silicem posita*, their custome being to eat that feast upon an altar of stone: and because this feast was onely eaten at funerals, and by the elder sort, *l* hence figuratively this word *silicernium* doth sometimes signifie an old cripple ready for the grave. The poorer people instead of a feast, received a dole or distribution of raw flesh: this dole was termed *Visceratio*. Moreover there was a potation, or drinking of wine after the burial, called *Murrata*, or *Murrhi a potio*, which afterwards the law of the 12 Tables for the avoiding of expences did prohibit, as likewise for the moderating of grief in

f Rosin. Ant. lib. 5.

g Servius in Æneid. lib. 2.

h Hub. in Cic. epistam. lib. 4.

i Hieron. Fabritius in Cic. orat. Philip.

k Servius in Æneid lib. 5.

l Antesig. in Ter. Adelph. Act. 4.

the mourners, it did prohibit the use of this word *Lessum*, [*Neve lessum funeris ergô habento*] for that word was often ingeminated in their mourning as a dolefull ejaculation, or note of inward sorrow. This sorrowing or mourning, was in some cases utterly prohibited, in others limitted; *m* namely, an infant dying before he was three yeers old, should not be mourned for at all; because he had scarcely yet entred into his life. Elders persons were to be mourned for so many days as they were yeers old. Wives were permitted to mourn for their husbands (*Alexander* addeth also children for their fathers) ten moneths, if they would, within which time the widdow could not marry another husband without infamy and discredit. *Polyd. de Juvenal. l. 6. cap. 9.* Here we may with *Revardus* observe a distinction between *Lugere* and *Elugere*; *Lugere* signified no more then to mourn some part of the time prescribed, *Elugere* to mourn the whole and full time.

m Alex. Gen. dier. l. 3. c. 7

LIB. 2. SECT. 3.

Of the Roman Games.

CAP. 1.

De ludis Megalenſibus.

THe plaies uſually exhibited by the *Romans*, may be divided into three ſorts: ſome were *Ludi ſacri*, others *Honorarii*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the Gods: Such were theſe that follow in their ſeveral Chapters. *Megalenſis ludi*, they they are called ſimply *Megaleſia*, from the Greek word μέγας, ſignifying *Magnus*, becauſe they were performed in the honour of *Cybille*, called *Magna mater*; of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here take notice of that which is not mentioned there, namely, that theſe Games began *à pridiè Nonas Aprilis, id eſt*, on the fourth of *April*, and continued ſix days after: as appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleides*, which is on the ſecond of *April*, addeth.

Ter ſine perpetuo cœlum verſetur in axe,
Ter jungat Tiran, terq́; reſolvat equos,
Protinos inflexo Berecynthia tibia cornu
Flabit, & Idææ feſta parentis erunt.

This I note, that the error crept into *Ivy*. may be obſerv'd, who treating of the matter in hand, ſaith, *In æ dem victoriæ, quæ eſt in Palatio, pertu'ere Deam pridie Idus Aprilis iſq́; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſternium, & Ludi fuere, Megaleſia appellata.* That is, that theſe plais were celebrated upon the twelfth of *April*. But in the judgement of Many Expoſitors, we are to read *Pridie Nonas*, for *Pridie Idus*. Moreover, ſervants might not be ſpectators here, and becauſe the *Prætors* did frequent theſe ſports in their purple and beſt robes, *b* hence grew that proverb *Purpura Megalenſis*. To the younger ſort at this time, liberty was granted to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. *c* They were ſometimes termed *Ludi ſcenici*, though properly, *Ludi ſcenici* ſignified ſtage-plays, and were performed in the honour of *Bacchus*.

Liv. lib. 29

An. Conſt.

b. Ovid. Faſt. lib 4.

Ju. Scalig. Coct. l. 1. c. 29

Cap. 2.

Ludi Cereales.

THat theſe games were performed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proſerpina*, taken away by *Pluto*; the *Roman* men beheld theſe plaies in white gowns: the women performed the ſacred and holy Rites in a white garment alſo. Among whom it was obſerved, that then they thought their ſervice grateful to the Gods, when it was performed by thoſe that were joyful, and free from all funeral pollutions. At this time there was a ſolemn going in proceſſion, and carrying about their Gods in the Cirque, this ſolemnity was pro-

properly called *Pompa.*

Circus erat Pompâ celeber, numeroq́, Deorum,
Primaq́, veneſis palma petetur equis,
Hæc Cereris ludi. &c. *Ovid. Faſt. lib.* 4.

The manner of this ſolemn ſhew, which, as I noted, was properly called *Pompa*, is diſcribed [d] thus by its particulars; that there was *Simulachrorum ſeries, imaginum agmen, currus, thenſæ, armamaxæ, ſedes, corona, exuviæ, id eſt, Firſt*, in this ſolemn proceſſion, were carryed about the Images of the Gods. *Secondly*, the Images of well deſerving men. *Thirdly*, Chariots led up and down for greater ſtate and magnificence; unto this *Virgil* alludeth:

Hic illius arma
Hic currus fuit.

Fourthly, Pageants, ſo I interpret *Thenſæ*, which were ſo called *quaſi tenſæ, à tendendo*, as [e] *Aſconius* noteth, becauſe they were carryed up and down, by the help of certaine ropes, which to touch they counted a point of Religion. *Fiftly*, horſe-litters, for that theſe *armamaxæ* were not Chariots, or Wagons, appeareth by him, [f] *Qui ex curru in armamaxam deponebatur.* They ſeem to have been of a compounded form, in part like Charriots, called ἅρματα, in part like wains, called ἅμαξαι, and thence ἁρμάμαξα hath its appellation, ἁρμάμαξα *inquit Phavorinus,* ἢ πρὸς ἀνδρῶν καθέδραν κατασκευασμένη ἅμαξα, ὃ ον ἁρμα καὶ ἅμαξα, ἢ ἀνδρόμαξά τις οὖσα ἢ ἄγουσα τὺν ἄνδρας. In which words, beſides the Etymologie expreſſed, the uſe hereof is declared to be for the carriage of men. That as the Charriots went empty for greater magnificence, and as in ther Pageants were carryed the *Simulachra Deorum*, according to that, [g] *Thenſa Deorum vehiculum*: ſo in theſe horſe-litters were carryed men; or rather that ſame *agmen imaginum*, which was the ſecond particular. *Sixtly*, chairs of State. *Seventhly*, Crowns. *Laſtly*, ſpoiles taken from their enemies. Theſe three laſt I take to have been uſed chiefly and principally in the *Romans* ſupplica-

[d] Ter. de ſpect. cap. 7.

[e] Vid. Franc. Jun. annot. in Ter. de ſpect. It. de tenſis vl. Turneb. 29. 27. [f] Herod. 17.

[g] Alex ab Alex. l. 2. c. 30.

cations, or publike thanksgivings for any great victory; the custome being in such shews, when they came to such and such remarkable places in the cirque, to pitch a certain chair, adorned with crowns of victories and spoils taken from the enemie, reputing it not the least office,[b] thus to honour their Emperour, though absent, with the prerogative of such a chair. Now in the preparation to this particular shew, we read, that an Egge was especially provided. It is observed by [i] many out of *Macrobius*, whose words; *Ovumq; in Cerealis Pompæ apparatu numerabatur primum.* The observation is general, but the reason thereof, *Inter arcana Cereris*, quite suppressed, and by none that ever I could meet with, yet explained: if my conjecture may sasatisfie in a matter so obscure, conceive it thus. These pompous shews was various, and in the honour of divers Gods, and accordingly the *Romans* made choice in every such solemnity, of some one principle thing in their shew, unto which the glory of the present solemnity should in more especial manner belong. Thus in the *Pompa circensis*, which was celebrated in the honour of the [k] Sun, great horses were led up and down for greater state; [l] *Quia equis, & equestibus exercitamentis sol præ esse credebatur superstitione antiquissima.* Hence the Cirque place it self was called τὸ ἱππιὸν, and ἱπποδρόμιον. After this same manner in this *Pompa Cerealis* (which was also sometimes called *Circensis*, from the place where it was exhibited) an egge was chiefly and principally provided: for seeing that under the name of *Ceres*, this solemnity was performed to the *Earth*, how could the *Earth* be more honoured, then by bearing about the hieroglyphick of the whole world? as if they did intimate thereby, that even heaven it self was beholding to the *Earth*.

Pecori frondes alimentaq; mitia fruges
Humano generi, vobis quoq; thura ministro. Ov. Met. l. 2.

And such an hieroglyphick [m] *Cœlius Rhodiginus* proveth an egge to be, partly from its circular and globe-like form, partly

Vid. Isaac Causaub. in Sueton. Jul. 75.

Hosp. de orig. est. Rosin. l. 5 c. 14. Alex. ab Alex. l. c. 19.

Solis honore novi grati spectacula Sinci Antiqui annexere paries. Corrip. Afric. l. 1. c. 17 Vid. Dempst. Franc. Jun. Annot. in Ter. de spect. c. 8.

Cœl. Rhod. lib. 27 c. 17.

ly from the matter whereof it consisteth; the hard shel resembling the solid earth; the more spirituous part thereof, the air, the moist and liquid part the water; the yolke, the element of fire; yea he noteth also, as there is *in mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning, and enlivening power in both. Otherwise if this opinion give not content we may interpret the carrying about of the egge, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goales in the Cirque, some in the form of *Dolphins*, in the honour of *Neptune*; so were there others [n] ὠοειδῆ σημεῖ-γίματα, marks of a long roundnes, in form of an egge in memory of [o] *Castor* and *Pollux*, which were *ovo edita*, according to that of *Horace*:

[n] Dio. lib. 49.

[o] Tertul. de spect. cap. 8.

Ovo prognatus eodem. Hor. serm. 2. Sat. 1.

For the same reason happily it was, that an egge was at this time carryed up and down, as the chief and principal Ensigne.

Cap. 3.

Ludi Florales.

THese Games or sports, were instituted in the honour of the Goddesse *Flora*, that she being therewith appeased, the earth might bring forth flowers, and fruits in great abundance. Of the Goddesse it hath been spoken before. The time of the year when these sports were observed, [p] was upon the four last daies of *April*, and the first of *May*, whence is that of *Ovid. Fast. 5.*

[p] Alex ab Alex. lib. 6. 8.

Incipis Aprili, transis in tempora Maii:
Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameles strumpets did then run up and down the streets naked, using many lascivious and obscene gestures, and speeches: they were called together by the sound of a trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus
Florali matrona tuba.

More

Moreover, whereas in other games, Bores, Lyons, and Bears were publickly baited to recreate the ſpectators; here onely Goats and Hares, and ſuch milder beaſts were excepted, becauſe the Goddeſſe *Flora* had not the cuſtody of Woods and Forreſts, where the wild beaſts ranged; but Gardens and Meadows. At this time alſo Elephants, were brought forth into the publick view of the people, which were taught [r] to walk on ropes; and that there is an aptneſs in Elephants to go forward and backward on ropes, [ſ] *Pliny* teſtifieth.

Hoſp. de orig eſt.

[r] Suet. in Gal. [ſ] Plin. l. 8. c. 3

Cap. 4.

Ludi Martiales.

OF theſe ſports there is not much ſpoken: [t] they were obſerved upon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted [u] by *Numa Pompilius*.

[t] Dio. lib. 69. [u] Tertul. de ſpect. cap. 5.

Cap. 5.

Ludi Apollinares.

THere was an ancient Poet called *Martius*; [*] out of whoſe writings, as likewiſe out of the *Sibylline* Oracles, the Romans were admoniſhed to dedicate certaine games to *Apollo*. At the firſt celebration of them, [x] it is reported, that a ſudden and unexpected invaſion of enemies inforced the Roman people to forſake their ſports, and to betake themſelves to weapons: in which time of their diſtraction, a Cloud of Darts and Arrows was ſeen to fall upon their enemies, ſo that they preſently returned Conquerours unto their ſports, where [y] at their return they found one *C. Pomponius*, an old man, dancing to a minſtrel, and being very joyfull, that their ſports had been continued with-

[*] Liv. lib. 5. dec. 3. [x] Macrob. l. 1. Sat. c. 17. [y] Suet. Pom. Feſt. v. d. Hoſ. de orig.

without interruption they cryed forth, *Salva res eſt, ſaltat ſenex.* Which ſpeech afterward became proverbial, and is fitly uſed, when a ſuddain evil is ſeconded with a good event, beyond hope or expectation.

Cap. 6.

De ludis Romanis, qui & magni, & Conſuales, & Circenſes dicti.

THeſe ſolemnities are ſometimes called *Romani ludi*, becauſe of their antiquity amongſt the *Romans*, being firſt inſtituted by *Romulus*; ſometimes *Magni ludi*, either becauſe of the great charge and expence of money at that time, or becauſe they were performed in the honour of their great God [a] *Neptune*, called alſo *Conſus*, becauſe he was reputed the God of ſecret *Counſels*, whence the ſolemnities themſelves are ſometimes called *Conſualia*: whereas many of the *Roman* Temples, for certain myſterious ſignifications, had their peculiar manner of building, [b] *Servius* noteth that the Temple in he great Cirque, dedicated to *Conſus*, was couered, to ſignify that counſels muſt be ſecreted and conſealed. Likewiſe for the ſame reaſon, [c] his Altar was made under the earth, not appearing in publique view, ſave onely in the time of theſe ſolemnities exhibited. The chief ceremonies uſed at this time, conſiſted in the adorning of their horſes and aſſes with garlands, wherein they thought that *Neptune* was honoured, who was the firſt author and inventer of horſ-riding: hence *Neptune* himſelf is called [d] ἵππιος. This feſtival was firſt inſtituted by *Evander*, in the honour of *Neptune*, under the name of ἵππιος, and [e] thence the feaſt was called ἱπποκρατία. Afterward it was renewed by *Romulus*, in the honor of *Neptune* likewiſe, but under the name of *Conſus*, becauſe *Romulus* needed a god of counſel to aſſiſt him in that deſignement of his, for the violent taking away of ſo many

[a] Ter. de ſpect. cap. 5.

[b] Serv. in Virg. Æn. lib. 8.

[c] Alex. ab Alex. l. 5. c. 26.

[d] Vid. Suid.

[e] Dion. Hal. lib. 1.

many *Sabine* women, as were taken away at the first celebration of these games. The reason of *Romulus* his institution of them, being no other, but that upon the fame of these new sports, many *Sabine* women flocking thither to be spectators, his project might be the sooner effected. These and the cirque-shews, so often mentioned in ancient Authors, at first were all one, as appeareth by that of *f Valerius. Ad id tempus circensi spectaculo contenta erat civitas nostra, quod primus Romulus, raptis virginibus Sabinis Consualium nomine celebravit.* Touching these cirque-shews, some are of opinion that they were performed in the honour of *Ceres*; this *Julius Scaliger* g disliketh, and he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion they were instituted in the honour of the *Sun*. All opinions may be reconciled, if we understand first, those Authors who ascribe these cirque-shews to *Ceres*, to speak of the *Cereales ludi*, which we read sometimes to be called *circenses*, because they were exhibited in the Cirque. Secondly if we distinguish the *Pompa circensis*, from the *Circenses ludi*, and from the *Cereales ludi*. The *Cereales ludi* were instituted in the honour of *Ceres*; the *Circenses ludi*, in the honour of *Neptune*; the *Circensis Pompa*, in the honour of the Sun. And furthermore for the full understanding hereof, we must know that the horses brought into the Cirque at this time, were of two sorts: some were onely πομπικοὶ, such as were led up and down for shew and state; I understand *Alex. ab Alex.* to speak of these horses, when he saith *h* horses were consecrated to the Sun; nay I understand those horses mentioned 2 *King.* 23. to have bin of the like superstitious invention, where it is said, that *Josiah* did put down the horses given to the *Sun*, and the *charriots of the Sun*. That practice I say, hath neer affinity with this of the *Romans*, but I think it to have bin originally derived to the people of *Judah*, from the *Persians*, who also accounted them holy to the Sun; *i* and the *Persian* king when he would shew himself in great state, caused an exceeding great horse

f Val. Max. lib. cap. 4.

g Jul. Scal. lib. poet. c. 32.

h Alex. ab. Alex. l. 3. c. 22.

i Cæl. Rhod. antiq. l. 8. c. 2.

to be led up and down, which was called *Equus Solis.* Other horſes were for exerciſe and race, we may call them *Sequiniæ*, the inſtitution of theſe I ſuppoſe to have bin in the honour of *Neptune.* The priſes of maſteries exerciſed in time of this cirque-ſhew were many; fencing, and that until one of the combatants were killed in the place; fighting with beaſts; wraſtling, running of races on foot; jumping and leaping horſe-racing; ſea-skirmiſhes exhibited in ſome river; coach-races, and fighting at whorlebats. Howſoever the nature and manner of theſe games are in ſome meaſure underſtood by the very names, yet a more large diſcourſe concerning the two laſt, will be very behovefull, for the more full underſtanding of the *Roman* Hiſtory. Theſe coach-races, when this manner of race was firſt inſtituted, were divided into two companies which they tearmed, *Factiones albas, & ruſſeas* diſtinguiſhing each faction or company by the different colour of their coats. Afterward they were divided into four companies, diſtinguiſhed always by their colours: whence came that diſtinction, *Factiones Praſinæ, Venetæ, Ruſſatæ, Albatæ*; which colours may thus be engliſhed; the firſt ſignifyeth a deep green; the next a kind of ruſſet inclining to red; the third a Venice blew, or Turky colour; and the laſt a perfect white. Of theſe *l Tertullian* ſpeaketh as followeth *Aurigis coloribus idololatriam veſtierunt, & ab initio duo ſoli fuerunt, albus & ruſſeus. Albus hyemi ob nives candidas: ruſſeus æſtati ob ſolis ruborem voti erant: ſed poſtea tam voluptate, quam ſuperſtitione provecta ruſſeum allii Marti alii album Zephyris conſecraverunt: Praſinum vero terræ matri, vel vero: Venetum cœlo & mari, vel autumno.* As the Emperour, ſo the people ſometimes favoured one faction or company, ſometimes another: and accordingly as the favoured the company, they would lay wagers on their ſide, which wagers they tearmed by a peculiar name *Sponſiones*; thus *m Turnebus* interpreteth *Tertullian*, where he ſaith that the people flockt to theſe races, ſometimes for one reaſon, ſometimes for another,

k Henr. Salm. in Pancir. cap. de Circo. Max.

l Ter. de ſpect cap. 9.

m Turneb. ad lib. 8. cap. 4.

ther, but ſometimes [n] *ſponſionibus concitatus, id eſt*, ſtirred up with a deſire of betting, or laying wagers. To theſe four [o] *Domitian* in his time added two other companies, the one wearing cloath of gold, the other of purple: but theſe latter remained not long in uſe. Their fighting at whorlebats they termed *bellare ceſtu*. The manner of the fight conceive thus; the combatants had in each hand a ſtrap of leather, with which each ſtruck at the other (for we muſt know that this kinde of fight ſucceeded fiſticuffes, and becauſe in fiſticuffes the party ſtriking, did by the blow as well hurt his own fiſt, as he did him that was ſtrucken, hereupon they invented this other kind of fight with lethern ſwitches) theſe lethern ſwitches they called *Ceſtus*, from the [p] Greek κεστὸς, ſignifying a belt or girdle: to make the fight more dangerous, they did in after-times tye pieces of lead, or Iron, at the end of theſe lethern ſtraps, ſo that they did with the force of the ſtroke, often daſh out one anothers brains; and becauſe by the weight of the lead or Iron, the ſtrap might chance to flye out of their hands, they cauſed each ſtrap to be tyed faſt to their armes and ſhoulders: neither was this without reaſon, for thoſe Iron or leaden pieces could not be but very weighty, being made in the bigneſs and [q] form of Rams Hornes. Laſtly, theſe Cirque ſhewes had their appellation *Circenſes*, either from the great Cirque, or ſhew-place, called *Circus Maximus*: where the games were exhibited; or from the ſwords wherewith the players were environed, as one would ſay *Circa enſes*. They much reſembled thoſe Grecian games called *certamina Olympica*, where the runners with Charriots, were hemmed in on the one ſide with the running river, and on the other with ſwords pitched point wiſe, that they ſhould hold the race on directly, and not ſwarve aſide without danger. [r] Some have thought them to be the ſame with *ludi Gymnici*, ſo called from γυμνὸς, naked; becauſe that thoſe which did performe thoſe kindes of exerciſes, did either put off all, or the greateſt part of their cloaths, to the intent that they

[n] Tertul. de ſpect. cap. 16.

[o] Suet. in Domitian. cap. 7.

[p] Jul. Scal. lib. poet. c. 22

[q] Aldus Manut lib. 2. de quæſt. per epiſtolam ep. 8. vid Roſin. ant. lib. 5. c 5.

[r] Roſin. ant. lib. 5. c. 5.

they might the more readily and nimbly performe their games; for which purpoſe they did alſo annoint their bodies with oyle; whence we ſay, when a man hath loſt his coſt and labour, *Operam & oleum perdidit*; *oleum* in this place ſignifying coſt and charges; ſo that the proverb was the ſame with that of the Coblers crow, *Opera & impenſa periit.*

Cap 7.

Ludi Capitolini, & Agones Capitolini.

THe firſt inſtitution of theſe games [r] *Livy* ſheweth, where likewiſe he intimateth the reaſon, why they were called *Capitolini*, to have been in the honour of *Jupiter Capitolinus*, becauſe he preſerved the *Capitoll*, when it was aſſaulted by the *Gauls*. We muſt diſtinguiſh theſe games from thoſe other ſhewes called *Agones Capitolini*, inſtituted by *Domitian*: For thoſe *Ludi*, were exhibited yearly, [ſ] theſe *Agones* every firſt year; in thoſe was celebrated the deliverance of the *Capitoll*; In theſe Rhetoricians, and Poets, and men of other profeſſions contended for the victory: and hence [t] *Roſinus* thinketh the *Poets laureat* to have taken their beginning. He is likewiſe of opinion, that *Juvenal* alludeth unto theſe ſolemnities,

[r] Liv. dec. 1. & lib 5.

[ſ] Sueronius Domit. cap.

[t] Roſin. ant. lib. 5. c. 18.

—— Sed cum ſregit ubſellia verſu
Eſurit. intactam Paridi niſi vendat Agaven. Sat. 7.

Although the alluſion may be granted, yet herein I thinke *Soſinus*, though otherwiſe learned, to have been miſtaken, in interpreting *Frigit ſubſillia*, by *Non ſtetit, Excidit*, or *Non placuit*; as if the Poet of whom *Juvenal* ſpeaketh, had been conquered at this time. In my opinion neither will the purpoſe of *Juvenal*, nor that phraſe of ſpeech admit that conſtruction. Not the purpoſe of *Juvenal* for the ſcope and drift of that Satyre, is to ſhew, that be the Poet never ſo pleaſing, or let him give full ſatisfaction to the people, yet he ſhall re-

ceive no benefit thereby, but a vain and empty applauſe, ſo that he ſhall be compell'd to ſell thoſe very Poems which are received with ſo general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phraſe: for *Frangere ſubſellia*, doth rather on the contrary, ſignifie the vehement acclamation given by the people in approbation of the Poem, it being a poetical elegancy, to expreſs the vehemency and greatneſs of the applauſe. [a] *Sidonius Appollinaris* uſeth the ſelf ſame phraſe; *Hunc olim perorantem, & rhehetorica ſedilia plauſibili oratione frangentem, ſocer eloquens ultro in familiam patritiam aſcivit.* Neither is that of *Virgil unlike*;

Sidon. Ap. lib 5. Epiſt. ad Sapand.

Et cantu querulæ rumpunt arbuſta cicadæ.

Yea the *Cracians* uſed the ſame manner of ſpeech [b] κετῤῥήνυτο πάς ὁ τόπος ὑπὸ τοῦ Κρότου, καὶ τῆς κραυγῆς. So that hereby I think that the Poet underſtandeth, that *Grande ſophos*, ſo often mentioned by *Martial*: it being a uſual cuſtome amongſt the *Romans*, to ſignifie their approbation of their Orator or Poet, by the loud acclamation of σοφῶς, or ὀρθῶς. Unto which *Horace* alludeth, *de arte poet.*

Polyb. in Hiſt. 15. §

—clamabit enim pulchrè, benè, rectè.

But to return whence we have digreſſed, theſe latter ſolemnities were of ſuch note, that whereas the *Romans* formerly, made their competations of their greater year, called *Annus magnus*, by their *luſtra*, [c] now they made it by theſe *Agones Capitolini*. Again we muſt diſtinguiſh theſe *Agones quinquennales* inſtituted by *Domitian*, from thoſe *Ludi quinquennales* inſtituted by [d] *Aguſtus Cæſar*, in memory of the victory which he got againſt *Antonius*, upon the promontory *Actium*, whence they were called, *Actiaci Ludi*.

[c] Hoſp'n. de orig. feſt.

[d] Sueton. Aug. cap. 18.

Cap. 8.

De ludis ſecularibus.

AUthors agree not upon the juſt period of time when theſe ſecular games were to be renewed; ſome are of opinion that they were to be celebrated every hundreth year; ſome every hundreth and ten, ſome once onely in three hundred: but in this all agree, that they were named *ſæculares*, from *ſæculum*, which ſignified at leaſt an hundred years, [a] *ſæculum in centum annos extendi exiſtimabant*; Becauſe the full and compleat age of a man, might extend it ſelf to the hundreth year, and ſeldom to any above an hundred: thence it was, that the form of words uſed by the publique cryer in proclaiming theſe games, was [b] *Venite ad Ludos quos nemo mortalium vidit, neq; viſurus eſt.* Unto which [c] *Ovid* alludeth, *Triſt. l.* 2. *Carmana*——

Juſſerat & Phœbo dici, quo tempore ludos
Fecit, quos ætas aſpicit una ſemel.

But the Emperours being ambitious of honour, and deſirous to be ſpectatours of the games in time of their own raigne, they did often anticipate the time. *Claudius Cæſar* amongſt the reſt, proclaimed them within [d] ſixty three yeare after *Auguſtus* had obſerved them, which occaſioned the people to deride his cryer, inviteing the people to thoſe ſhews and ſports, which no man living either had ſeen, or ſhould ſee again: becauſe [e] ſome who were ſpectators nay actors in thoſe ſolemnities exhibitted by *Auguſtus*, lived at the ſame time when *Claudius* cauſed this to be proclamed. Theſe playes were alſo [f] called *Tarentini ludi*, not from the City *Tarentum* in great *Greece*; but from a certain place of the ſame name neer *Rome*, adjoyning to the River *Tiber*. All the Theaters at this time were filled, and ſacrifices offered throughout all the *Temples*, for the ſpace of three days, and three nights,

[a] Herodian. lib. 3. in vita Severi.

[a] Roſin. ant. lib. 5. c. 21.

[b] Pol. Virg. de invent. l. 8. cap. 1.

[c] Ov. Triſt. lib. 2.

[d] Alex. ab Alex. l. 2. c. 30.

[e] Suet. Claud. cap. 21.

[f] Hoſp. de orig. feſt.

nights, which giveth light to that of *Auſonius*,

Trina Tarentino celebrata trinoctia ludo.

The firſt day the Emperour and the *Quindecim-viri*, early in the morning aſcended the *Capitol*, and there offered ſacrifice according to the wonted manner; thence they departed to the Theaters, to perform ſolemn playes in the honour of *Apollo* and *Diana*. The ſecond day the noble Matrons aſſembled together in the *Capitol*, they offered up ſupplications unto their Gods, they faſted and ſung hymnes, in the honour of the Gods. The third day ſeven and twenty boyes, going along three and tree, and as many maids in like manner, all of them nobly deſcended, and having both father and mother alive, ſung verſes; in which they commended the *Roman* ſtate to the protection of the immortal Gods. This was tearmed *Paeanas concinere*, which word *Paean*, though it ſignifieth primarily an hymne, or ſong of praiſe made to *Apollo*, who was called *Paean*, [g] from παιειν, *à feriendo*, becauſe of his victory gotten of the *Pythō*: yet [h] ſometimes, and ſo in this place, it denoteth the praiſes in general of all the Gods. Again the phraſe intimateth an elevation of the voice in ſinging, with a kind of riſing from one note to another. Thus *Turnebus* maketh παιανιζειν, and μινυιζειν to be oppoſite, [i] *Videtur autem Paean contentionis vocem eſſe, minuitio remiſſionis.*

g Cœ. Rhod. antiq. l. 7. c. 5

h Servius. in Æn. lib. 6.

i Turneb. adv. lib. 1. c. 12.

Cap. 9.

De ludis plebeiis, compitalitiis, Auguſtabilibus, Palatinis, Taurilibus, & votivis.

OTher Games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are theſe that follow; *Plebeii Ludi*, [k] which were celebrated in memory of the liberty procured to the *Roman* ſtate, by the ſucceſſion of Conſuls in the place of

k Alex. ab. Alex. l. 6. c. 19.

of Kings: or as others say, in memory of the reconciliation wrought between the Senators and the commonalty, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny departed to the *Aventine* mount. 2. *Compitalii Ludi*, so called because they were usually solemnized in *Compitis*, (*id est*) in the crosse-wayes, and open streets: [l] they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they termed *Lares* in memory of his nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth; [m] *Die noni post Calendas Januarii Quiritibus compitalia erunt.* Concerning which words, *Gellius* noteth, [n] *Die noni Prætor dicit, non die nono, neq; Prætor solùm, sed plerąq; omnis vetustas sic locuta est.* 3. *Augustales ludi*, performed in the honour of *Agustus Cæsar.* 4. *Palatini ludi*, so named, because they were performed in the *Palatine* mount. Some are of opinion that they were instituted in the honour of [o] *Julius Cæsar*, others in the honour of [p] *Augustus.* 5. *Tourii ludi*, which received their name from *Taurus*, a bull; they were first ordained by *Tarquinius* [q] *superbus*, when there happened a great pestilence amongst the women with child, occasioned by much bull flesh sold unto the people, for the removal of which plague, these games were instituted, in the honour of the infernal Gods. They are sometimss also called *Boalia, & Bupetii.* 6. To those may be added their *Votivos ludos*, which were also performed in the honour of some God, upon some special vow made. For whensoever the *Romans* did undertake any desperate war, then did some *Roman* Magistrate *Vovere ludos, vel templa*, conditionally that they got the conquest; whiles the Magistrate uttered this his vow, he was said *Vota nuncupare*, or *facere vota, id est*, to make a solemn vow unto the Gods; the vow being thus made, he which made it did write it in paper, and with wax fastened it to the knees of their Gods, thereby binding himselfe the more strongly to

l Plin. lib. 36. cap. ult.

m Macrob. l. 1. Satur.

n A. Gel. noct. Att. l. 10. c. 24.

o Alex. ab. Alex. lib. 6 c. 19.

p Lib. 56. cap. ult.

q Fast. vid. Hospin. de orig.

Turneb. advers. l. 2. c. 17.

the performance; and this in *Plini* his phraſe is *ſignare vota*; *Juvenal* termeth it, *Genua incerare deorum*, *Sat.* 10.

After this he was ſaid to be *Voti reus*, *id eſt*, conditionally bound and obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt, yea after that the thing craved had been obtained, then was he ſaid, *Damnatus voti*, *vel voto* (*id eſt*) ſimply bound to the performance of the vow, ſo that by conſequence, *Damnari voti*, *vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chiefe and principal games which were meerly *Sacri*, tending to religion: the ſecond ſort were, *Ludi honorarii*, of which in the next Chapter.

Cap. 10.

De Gladiatura.

Such ſports and plaies, which were performed by private men upon their own purſe and charges, they ſeeking thereby to winde themſelvs into the affections of the common people, and to make way for their own preferment and honour, were termed [a] *Ludi honorarii*: and howſoever any game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature were for the moſt part, *either fencing* or *ſtage-playes*: *fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the Latin word, [b] *Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon termed *Munerarii*. The firſt original of this fencing and ſword-playing, to the killing of one another, hath been derived from a cuſtomary practice among the heathens, at the burials of their friends, who were perſwaded that the ſhedding of mans blood would be propitiatory for the ſoul deceaſed; hence would they buy captives and ſlaves, purpoſely to be ſacrificed at burials: afterward that this wicked ſpectacle

[a] Iſaac Cauſabon. in Suet. Aug. 32.

[b] Lipſ. Sat. l. 1. c. 7.

[c] Tertul. Ir. Servius in Æneid. 10

cle might be the more pleaſant and delightful, they changed their ſacrifice into a fencing with art, where the combatants did fight for their lives. This particular kind of *Fencers* were called *Buſtuarii*, from *Buſtum*, the place where dead mens bodies were burned; but ambition and cruelty made theſe bloody ſpectacles in after ages more frequent, inſomuch that prizes at laſt were plaid not onely at the tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, &c. yea they were given as legacies by will and teſtament unto the people. Theſe prizes have continued many days together, and the number of the Combatants ſometimes exceeded number. At the firſt none would thus hazard their lives, but captives, and fugitive ſervants which were enforced thereto, being bought for that purpoſe; afterward thoſe that were free-born ſuffered themſelves to be hired, for which cauſe they were termed *Auctorati*, hirelings; [d] yea noble men themſelves ſometimes by reaſon of their decayed eſtates, ſometimes to demerit the Emperour his love endangered their lives in this fight. Thoſe that were hired bound themſelves by a ſolemn oath to fight unto death, or elſe they would yield their bodies to be whipt, yea and to be burnt, unto which [e] *Horace* alludeth;

[d] Sen. ep. 10.

[e] Serm. 27.

Quid refer, uri, virgis ferroq́; necari?
Auctoratus eas, an turpi clauſus in arca?

The manner of this bloody ſpectacle was thus; The Maſter, or exhibiter thereof, did by a publick bill, give notice unto the people, what day the prize ſhould be performed, how many couples were to combat, what their names, &c. thereby to procure the greater expectation, and concouſe of people; of this ſpeaketh [f] *Sueton*, *Munus populo pronunciavit in filiæ memoriam.* [g] Yea they did in tables hanged in publick view, paint and repreſent, not onely the deſcription of the place, but alſo the very form and geſture of the fencers;

[f] Sueton in Julio.

[g] Plin. 357.

——*velut ſi*
Revera pugnent, feriant vitentq́; moventes.

Arma viri. Horat. lib. 2. Sat. 7.

Upon the day appointed when all met, then were the weapons brought forth, and thoſe, they were of two ſorts: *Luſoria*, or *Exercitoria tela*, ſuch as were the ſpear and wands, or cudgels, that they might toſſe the one, and fence with the other, and ſhew their feats of activity, all being but preparations to that more ſolemn and dangerous fight enſuing. The Greeks called them ἐσφαιρωμένα ἀκοντια, becauſe of the little balls tied at the ſharp end of the weapons to prevent dangers. Other were [n] *Decretoria tela*, ſo called, *Quia hæc velut decreto Prætoris, ſive Editoris dabantur.* Theſe were thoſe, with which they really encountred each other for life or death, and therefore ſometimes they are called *Pugnatoria*; *Seneca* ſpeaketh of both, *Remove iſta luſoria arma, decretoriis opus eſt.* And that the Apoſtle doth not allude to both, I dare gain-ſay, 1 *Cor.* 9. 26. 37. where he ſaith, οὕτω πυκτύω ὡς οὐκ ἀέρα δέρων, ἀλλ' ὑποπιάζω σου τὸ σῶμα, He did not beat the air and flouriſh with thoſe luſorious, and preparatory weapons, but he did truly fight againſt his natural corruption, to the wounding and ſubduing of it; for ſo [k] ὑπώπια ſignifieth *putrified wounds.* That phraſe of [l] *Seneca's* alluding to the fore-floriſhings, is not much unlike *Aliud eſt ventilare, aliud pugnare.* This fore-skirmiſh with cudgels was properly termed *præludium*: *Megara* ſpeaking of *Hercules* his conqueſt over the two Serpents, aſſaulting him being yet an Infant, ſaith, [m] *Præluſit Hydræ, id eſt,* that combate was but the prologue, preface, or introduction to that greater which ſhould enſue between him and the *Hydra.* Afterward when they betook themſelves to naked weapons and to a reall fight, then were they ſaid *Dimicare ad certum*, and *Verſis armis pugnare.* This word [o] *Verſis* being put for *Tranſmutatis.* In the act of fighting, they did frame and compoſe their body according to the rules of their art, for the better warding of themſelves, and the readier wounding of their adverſary. This frame and poſture of the body,

b Lipſ. Sat. l. 2. c. 19.

i Sen. epiſt. 117.

k Suid. in voce ὑπώπια.

l Sen. l. 3. con.

m Sen. Herc. fur. verſ. 221.

n Lipſ. Sat. lib. 2 cap. 19.

body, was by a peculiar name called *Status*, or *Gradus*, whence aroſe thoſe elegant Metaphors, *Cedere de gradu Demigrare de gradu*; to change ones purpoſe, and as it were to draw back from what he formerly intended. In like manner we ſay, *De mentis ſtatu dejicitur*, or *deturbatur*; he is driven to change his mind, or in general, he is amazed. In the conflict, oftentimes the ſword-players after they had received any dangerous wounds, laid down the weapons, which though in extremity was a token of cowardiſe, neither were they thereupon acquitted or diſcharged; but this depended upon the conſent either of the Emperour, or the people, or the Maſter of the ſhew. This diſcharge was properly called *Miſſio*. Such was the cruelty of thoſe times, that many prizes were proclamed, wherein they fore-ſignified, that ſuch diſcharges ſhould neither be craved, nor granted: whereupon [o] *Auguſtus Cæſar* made a decree, wherein *Gladiatores ſine miſſione edi prohibuit*. Thoſe Combatants that overcame, received by way of reward, ſometimes money, ſometimes a garland, or coronet of palm tree, wound about with certain woollen ribbands called *Lemniſci*; the coronet it ſelfe was therefore called [p] *Palma lemiſcata*, and hence figuratively hath *Palma* been tranſlated to ſignifie the victory it ſelf, and ſuch a man as hath often gotten the prize, we ſay proverbially that he is *Plurimarum palmarum homo*. The reaſon why the Palm tree, rather then any other tree, ſhould be given in token of victory, is rendered by [q] divers approved authors to be this: becauſe the Palm tree, though you put never ſo ponderous and heavy weight upon it, yet it will not yeild, but rather endeavour the more upward. Sometime the reward given by the people was one of thoſe wands, or cudgels uſed in the fore-skirmiſh. That wand was properly called *Rudis*, and it was given in token of liberty, ſignifying thereby, that he ſhould thence forward lead his life free from ſhedding of blood: alluding to which cuſtome, this word [r] *Rudis* hath been uſed to ſignifie any other kinde of

[o] Suet. Aug. 49.

[p] Fran. Sylv. in orat. pro Sext. Roſc.

[q] Ariſt. prob. 7 Plut. ſymp. 8. q. 4. A. Gel. lib. 3. cap. 6.

[r] Eraſ. Adag. Rudem accip.

freedom or diſcharge; Whereupon *Horace* ſaid of himſelfe that he was *Rude donatus, id eſt*, diſcharged from his paines in Poetry. Laſtly, ſometimes he that conqnered, received *Pileum*, a cap. And here it will not be amiſſe, to note the difference between *Palma Miſſio, Rudis*, and *Pileus*; *Palma* was onely a token of victory, not of liberty, or diſcharge. *Miſſio* was not a full diſcharge, but a kind of vocation, or reſpite granted upon requeſt, until the morrow, or ſome other time: again it was granted to thoſe that were conquered, not to the conquerers. *Rudis* was a token of a full diſcharge from bloody combats, whereby a mans life might be endangered; but yet with this diſtinction, that if it were beſtowed upon free Citizens, hired to be actors in theſe maſteries, then were they thereby reſtored to their freedom alſo, which formerly they forfeited by undertaking ſuch baſe conditions: to others which were formerly ſervants, or captives, it was only a token of liberty and diſcharge. Notwithſtanding ſometimes upon favour, ſuch ſervants or captives obtained together with their diſcharge from ſuch fights, a priviledge alſo of enfranchiſement, whereby they were thenceforward incorporated among free Citizens; the token hearof was *Pileus*, for then they received a cap, which latter obſervation helpeth for the underſtanding of *Tertullian*, where he ſaith; f *Qui inſigniori cuiq; homicidæ leonem poſcit, idem gladiatori atroci petat rudem, & pileum præmium conferat.* In which ſpeech the unjuſt, and unreaſonable practice of thoſe heathens is diſplayed, whiles they judge a man-ſlayer to be expoſed to Lions and wild beaſts, and yet notwithſtanding will reward the bloodineſs of ſword-players. Theſe fencers fought with divers manner of weapons, and accordingly had ſeveral names, the chief of which we read are theſe, 1. *Retiarii*, ſo called from *retejaculum*, ſignifying a float net uſed in fiſhing, becauſe this ſort of Fencers did fight with a caſt-net in one hand, to catch and claſp about their adverſaries head; and a three forked engin in the other, which they uſed in ſtead of a ſword

f Tertul. de ſpect cap. 21.

ſword: of this *Juvenal* ſpeaketh, *Sat.* 8.

— *Movet ecce tridentem.*

They did alwayes fight in their coats: whence the Epithetom floweth, *retiarii tunicati.* The reaſon why they bore up and down ſpunges, which *Tertullian* calleth *ſpongia retiariorum*, may be for the drying up of the blood, and wiping or ſtopping of the wounds: which uſe of ſponges, [t] *Pliny* noteth. Now becauſe theſe *Retiarii* were ſo light armed, they were compelled every time they ſtrok with their net, to retire back until they recovered their net again: and hence the ſecond ſort of fencers, which fought with them, were termed [u] *Secutores, ab inſequendo*, from following and purſuing theſe *Retiarii.* The weapons wherewith theſe *Secutores* did fight, were a target, to keep off the net of the adverſary; a ſword and an helmet, [3] *Thraces*, ſo called from the *Thracian* weapons which they uſed; their target was round, and little called *Parma*; it was at firſt in uſe among the * *Thracians* and afterward ſo proper to this ſort of ſword-players, that [x] *Parmularius* ſignifieth ſuch a one as favoured this company or faction of Fencers. Their ſword was a crooked falchion, termed by them *Sica.* The *Roman* ſouldiers did uſe to wear two of theſe, a long one on the left ſide, and a ſhorter on the right ſide, anſwerable to our ſword and dagger, but the form of the *Sica* was always crooked, according to that; *Sica δεξιὰν ξίφος ὀπλομαχὸς.* Privy murtherers practiſing the killing of men, may ſeem to have uſed the leſſer, as a pocket dagger; ſuch are thoſe *Sicarii*, of which there is ſuch often mention in *Tully.* 4. *Myrmillones*, they are ſometimes called *Galli*, becauſe they were appointed after the manner of the *Gauls.* Their weapons were a ſword, a target, an helmet with a creſt in form of a fiſh. 5. *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek ὅπλον *vel* ὅπλα *arma*, & μάχημα: until *Auguſtus* his time they were named *Samnites*: their armour was an helmet with a tuft on the creſt, a ſword a ſhield, and a boot on the

[t] Plin. lib. 34. cap. 11.

[u] Lipſ. Satur. l. 2. c. 7.

* Turn. Adv. l. 5. c. 10.

[x] Suet. in Domit. c. 10.

[y] Alex. ab Alex. l. 6. c. 22.

the leſt leg. 6ly. *Provocatores*, ſometimes called *Probactores*, theſe uſually fought with the *Hoplomachi*; their armour was a ſword, a target, an helmet, and boots on both legges. For as the footmen amongſt the Souldiers; ſo likewiſe ſome of the ſword-players uſed boots, for the ſafeguard of their legges; theſe boots were made of* iron, and ſo common amongſt the Grecians in war, that boots alone are oftentimes put to expreſſe the Grecians whole armature, as appeareth by that uſeful Epitheton in *Homer*, ἐυκνήμιδες Ἀχαιοὶ, *id eſt*, *Bene ocreati Græci*; Theſe boots they wore ſometimes on both legges, ſometimes on one, according as the manner of fight required. 7ly. *Eſſedarii*, ſuch as fought one againſt another out of wagons, ſo called from *Eſſedum*, a wagon or chariot. 8 *Andabatæ*, *quaſi* ἀναβαταὶ, *aſcenſores*, becauſe they did fight on horſe-back, or out of chariots. This ſort of fencers did fight winking, whence ariſeth that adage, *Andabatarum more pugnare*; the phraſe is fitly uſed, when two ignorant perſons are hot in contention about that which neither underſtandeth. 9ly. *Dimacharii*, called alſo *Orbelæ*, they fought each againſt the other, with two ſwords a peece, as the firſt name importeth. 10ly. *Laquearii*, ſuch as fought with ſwords and halters, the uſe of the halters was the ſame as the *Retiarii* made of their nets, to caſt about their adverſaries neck or arm, that they might the eaſier wound them with their ſword. Of all theſe ſorts of fencers I *Lipſius* treateth largly, to whom I refer the reader. Only here let him take notice that it was in the power of the people, to diſcharge any of theſe Combatants in time of the fight, which diſcharge they ſignified *premendo pollicem*, by holding down their thumb, or elſe to adjudge him to continue the fight, though in never ſo great danger, and this latter they ſignified *convertendo policem*, by turning up the thumb;

—*Et verſo pollice vulgi*
Quemlibet occidunt populariter, *Juven. Sat.* 3.

Moreover that there might be always in readineſſe, a ſufficient

* Veger. Vide Lipſ. de milit. lib. 3. dia. 7.

‖ Lipſ. Sat. 2.

ent number of ſword-players, hence were there ſchooles erected, into which captives, fugitive ſervants, and notorious offenders, were ſometimes condemned, ſometimes ſold The Maſters of theſe ſchooles were called *Laniſtæ*, the ſchollers or under fencers, trained up there for more publick and dangerous fights: were called *Familiæ*. The word *Familia* is often taken in this ſenſe, to ſignifie the whole company of under-fencers, belonging to one ſchoole, and the Maſter of defence, is for this reaſon, more then once by [m] *Sueton* called *Pater-familias*. Moreover when one challenged another to theſe combats, they ſignified their challenge by beckning with thier little finger *Horace* alludeth unto this.

[m] Sueton. Calig. 26. Ir. in Domit. 10.

Criſpinus minimo me provocat, accipe ſi vis,
Accipio: jam tabulas. lib. 1. *Serm.* 4.

This muſt be underſtood of a beckning. and that with the little finger; for otherwiſe in time of the fight, if either of the combatants did hold up his finger, [n] he ſignified thereby that he did yeeld. and give place unto his adverſary; ſome think that *Perſius* had reſpect unto this cuſtome, in that phraſe, —*Digitum exere, peccas. Sat.* 5.

[n] Alex. ab Alex. l. 4. c. 26.

C. P. II.

De ludis Scenicis.

THe ſecond ſort of playes beſtowed on the people for their favour, were *ludi Scenici*, ſtage-playes. The reaſon of this name *ſcena* may be ſeeen before. [o] The firſt inſtitution of them was occaſioned by reaſon of a great ſickneſſe, which by no medicinary help could be removed; The *Romans* ſuperſtitiouſly conceiting, that ſome new games or ſports being found out, the wrath of the Gods would thereby be unarmed [p] Whereupon, about the foure hundreth year after the building of *Rome*, they ſent for certaine ſtage players out of *Hetruria*, which they called *Hiſtriones*, from

[o] Lazius de Repub. Rom. l. 10. c. 11.

[p] Alex. Gen. l. 6. c. 19.

the *Hetrurian* word *Hister*, which ſignifieth ſuch a player *Quia Hister Thuſco verbo ludus appellatur, id nomen Hiſtrionibus eſt inditum. Polidor. de inven. lib. 3. c. 13.* Concerning the divers kindes of ſtage-playes I read of four, called by the *Grecians*, *Mimicæ*, *Satyræ*, *Tragœdiæ*, *Comœdiæ*; by the *Romans*, *Planipedes*, *Atellanæ*, *Prætextatæ*, *Tabernariæ*. In *Engliſh*, *Fable*, *Minical*, *Satyrical*, *Tragical*, *Comical*. Theſe *Minical* players did much reſemble the clowne in many of our *Engliſh* ſtage-playes, who ſometimes would goe a tip-toe in deriſion of the mincing dames; ſometimes would ſpeak full mouthed to mock the country clownes; ſometime upon the top of their tongue to ſcoffe the Citizen. And thus, by the imitation of all ridiculous geſtures or ſpeeches, in all kinde of vocations, they provoked laughter; whence both the plaies and players were named *Mimi*, from μίμος an imitator, or one one that doth ape-like counterfeit others; as likewiſe they were called *Planipedes*, becauſe the Actors did enter upon the ſtage *planis pedibus, id eſt*, z *Excalceati* barefooted. The ſecond ſort of playes were called *Satyræ*, [a] from the laſcivious and wanton country Gods called *Satyri*, becauſe the Actors in theſe *Satyrical* playes, did uſe many obſcene poems, and unchaſt geſtures, to delight their ſpectators. Afterward theſe kind of Actors as we may conject, did aſſume ſuch liberty unto themſelves, that they did freely and without controlement, ſharply tax and cenſure the vices even of Kings as well as of the commons, inſomuch that now we call every witty poem, wherein the lives and manners of men are ſharply taxed, A *Satyre*, or *Satyrical* poem. [b] *Satyra mordax fuit & ſalſum genus carminis.* Theſe *Satyrical* playes were alſo called *Atellanæ*, from the City *Atella* in *Campania*, where they were often acted. The third ſort of ſtage-playes were called *Tragœdiæ*, from τράγος a Goat, and ᾠδὴ an Ode or ſong; becauſe the actors therof had a goat given them as a reward. And likewiſe they were called *Prætextatæ* from *prætexta*, a certain *Roman* robe, which theſe Actors

z Alex. ib.

a Anteſignan. in ſuis obſer. de metris comicis Teren. præfixis.

b Vid. Eraſm. adag. Κωμῳδεῖος σατυρικὸς

Actors did uſe to wear in their playes. The fourth ſort were *Comœdiæ* from κώμαι which ſignifieth villages, and ᾠδὴ becauſe thoſe kind of actors did go up and down the country, acting thoſe *Comedies* in the villages as they paſſed along. They were likewiſe called *Tabernariæ, à tabulis, id eſt,* from the boards or pentices wherewith they were ſheltered from the weather whiles they were acting. Theſe two laſt ſorts of plaies, namely *Tragedies* and *Comedies*, being ſtill in uſe among us, it ſhill be worth our labour to conſider the communities, wherein they agree; otherwiſe the proprieties or notes of diſtinctiou by which they differ. I find three ſorts of parts, wherein they agree, namely *partes primariæ, acceſſoriæ, circumſtantes*; parts principal, acceſſory, and circumſtances, which are not ſo truely parts, as accidental ornaments added to beautifie the playes. The principal parts are four in reſpect of the matters treated of; for as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the 1. part called πρότασις, which word ſignifieth no more then a propoſition or declaration. But when the play enclineth to its heat and trouble, then enſuing the ſecond part called ἐπίτασις, which ſignifieth the intention or exaggeration of matters. The thi d part is called κατάστασις, *id eſt*, the ſtate and full vigor of the play. The laſt part which is an unexpected change into a ſuddain tranquility and quietneſſe is called κατάστροφὴ; whence by a *metaphor* it hath been tranſlated to ſignifie the end or period of any other thing, or rather the inclination unto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the players forſaking the ſtage, the parts were five, namely the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have bin this, that the ſpectators might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For

Thoſe breaches and chaſmes between each act, were made up and ſupplied, either by the *Chorus*, or *Muſick*. Where we muſt note, that every *Tragedy* and *Comedy* muſt have five *Actus*, and no more, according to that of *Horace*;

Neve minor quinto, neu ſit productior actu
Fabula,----

Again we muſt remember that it is not neceſſary that the πρότασις ſhould alwayes be contained in the firſt act; though many times it happeneth ſo; for in *Plautus* his Bragging ſouldier the *Protaſis* is found in the ſecond Act: and ſo likewiſe have the other three parts, *id eſt*, *Epitaſis*, *Cataſtaſis*, and *Cataſtrophe*, their bounds unbounded. Theſe Acts are divided into ſeveral Scenes, which ſometimes fall out more, ſometimes fewer in every Act. The definition of a Scene being *Mutatio perſonarum*: Whence we call a ſubtile *Gnatho*, which can humour himſelf for all perſons and times, *omnium ſcenarum homo*, a man fit for all parts. Now amongſt the *Romans* it was thought unfit, that above three perſons ſhould come on the ſtage in one Scene.

e Vid Eraſm. Adag.

Nec quæ tu loqui perſona laboret. Hor.

The *partes acceſſoriæ* in a *Comedy* are four; *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The firſt is the matter or ſubject of the Comedy. The ſecond is the Prologue, which is either ὑποθετικὸς, ſuch as doth open the ſtate of the Fable, at which time there needeth no argument; or elſe συστατικὸς, ſuch as commendeth the Fable, or the Poet unto the people; or laſtly ἀναρρητικὸς, ſuch as ſhall refute the objections and cavils of adverſaries. The third is *Chorus*, which ſpeaketh between each act; and this *Chorus* may conſiſt either of one, or many ſpeakers, and that either male or female: but with this caution, that if a male be to be commended, then muſt the *Chorus* conſiſt of males; if a female be to be commended, then muſt it conſiſt of females. And alwayes whatſoever the *Chorus* ſpeaketh it muſt be pertinent to the Act paſt, or covertly intimating ſomewhat enſuing.

d Arſtot. cap. de trag. & com. 5

Non

—Non quid medios, intercinat actus,
Quod non proposito conducat & hæreat apte. *Horat.*

It may ſeem ſometimes that in the midſt of the play ſome other ſport was interpoſed, as hunting; or fencing, or ſuch like, to delight the ſpectators with the greater variety, whence *Hor. Si diſcordet eques, media inter carmina poſcunt*
Aut ursum, aut pugiles.

Theſe interpoſed varieties were denoted by the name of *Diludia*; *Diſplicet iſte locus, clamo, & Diludia poſco, Horat:* The fourth and laſt acceſſory part, was *Mimus*, the clowne, or fool of the play. Of all theſe parts a Tragedy hath only a *Chorus*. The *partes circumſtantes*, or accidental ornaments, were four, common to both, *Titulus, Cantus, Saltatio, Apparatus, id eſt*, the Title of the play, Muſick, Dancing, and the beautifying of the Scene. By the ſcene in this place, I underſtand the partition between the players veſtry, and the ſtage or ſcaffold. This partition at the acting of a Tragedy was underpropped with ſtately columnes and pillars, and beautified with paintings reſembling princely buildings and the images as well of Gods as Kings. At the acting of a Comedy, country cottages and private buildings were painted in the out-face of the partition. In the *Satyrical* plaies the painting was overcome with ſhadows of mountaines and woods: The [e] firſt of theſe partitions they called *Scenam Tragicam*, the ſecond *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, which may be collected out of [f] *Anteſignanus*; are theſe: firſt in reſpect of the matter, becauſe a *Tragedy* treateth of exilements, murders, matters of grief, &c. a *Comedy* of love toyes, merry fictions and pretty matters, the one being δεινῶν περοχὴ; the other σύχνης περιοχὴ. In a Tragedy the greateſt part of the Actors are Kings and noble perſons; in a Comedy private perſons of meaner ſtate and condition. The ſubject of a Comedy is often feigned, but of a Tragedy it is commonly true and once really performed. The beginning of a Tragedy is

[e] Alex. Fen. dier. l. 5. c. 15.

[f] An eſſig. in ſuis obſervationibus comicis Terent. prefixis.

calm and quiet, the end fearful and turbulent; but in a *Comedy* contrarily the beginning is turbulent, and the end calm. Another difference which *Antesignanus* hath omitted is behoveful for us to know, namely that the Tragedians did wear upon the stage a certain shooe, comming halfe way up the leg in manner of buskins, which kinde of shooe was called by them *Cothurnus*, and from that custome it hath been occasioned, that *Cothurnus* is translated to signifie a *Tragical* and lofty stile, as *Sophocleo digna Cothurno*, matters beseeming *Sophocles* his stile: and sometimes a *Tragedy* it self. The Comedians did use an high shooe comming up above the ankle, much like a kinde of shooes which plowmen use to wear to keep themselves out of the durt. This kind of shooe is called *Soccus*, by which word sometimes also is signified a *Comedy*, as

Nigris medium impediit crus Pellibus Horat. Ser. l. 1. Sat. 6.

Hunc soccicepere pedem grandesq; Cothurni, Horat.

g Antasig. lib.

g All these sorts of stage-playes, both *Mimical*, *Sayrical*, *Tragical* and *Comical*, if they were acted according to the *Grecian* rite and custome, then were they called *Palliatæ* from *Pallium*, a certain mantle which the *Grecians* did use to wear, if according to the *Roman* manner, then were they called from the *Roman* gown *Togatæ*.

Cap. 12.

De Trojano ludo, sive Troja.

IT was a custome among the *Romans*, sometimes in the year to have a general muster of the younger sort, who meeting in the Cirque, exercised there running, racing, iding at tilt, and other such like feats of activity, whereby they might be trained up for their better service in the war. They chose a Captain, one or other of noble birth; He was called *Princeps juventutis*. They divided themselves into dipinct companies, sometimes marching forward, one against

a Hospin. de orig. fest.

gainſt another, ſometimes retiring backward, ſometimes skirmiſhing, ſometimes imbatteiling themſelves in one form, ſometimes in another, as if it were a true field pitcht. A large and full deſcription hereof we have in *Virg. Æn.* 5. This game was called *Trojanus ludus*, or ſimply [d] *Troja*, without the addition of any other word, becauſe *Aſcanius Æneas* his ſon firſt brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place.

[d] Suet. in Jul. cap. 39.

Hunc morem, curſus, atq; hæc certamina primus
Aſcanius, longam muris cùm cingeret Albam,
Retulit, & priſcos docuit celebrare Latinos.

Among other ſports uſed at this time, [e] there was alſo a kind of morisk daunce, wherein the younger men daunced in harneſſe, after a war-like manner, being thereby trained, to exerciſe all parts of their body, by ſundry geſtures, as well to avoid all venues and defend themſelves as to annoy and offend the enemy. This kind of dance is generally called *Pyrrhica ſaltatio*: becauſe it was invented by [f] *Pyrrhus*. Yea [g] ſome ſay, that *Suetonius* taketh *Trojanus ludus*, and this *Pyrrhica ſaltatie*; for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games termed *Juvenales ludi*. But doubtleſſe herein he was miſtaken, for thoſe *Juvenalia* were inſtituted by [h] *Nero* at the ſhaving of his beard, and had not their name, becauſe young men were the chief actors, but becauſe old men would now by the practice of youthful ſports, turn young again. The actions at this time were ſo far from ſavouring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

[e] Alex. ab Alex. l. 6. c. 19.

[f] Plin. l. 7. c. 56.

[g] Serv. in l. 5. Æn. It. Alex. ab Alex. loco ſupra citato.

[h] Sueton. in Neron. c. 11.

[i] Cœl. Rhod. lib. 19. cap. 22.

[k] Roſin. Rom. ant. l. 5. c. 22.

Cap. 10.

De teſſeris, talis, & latrunculis.

BEfore we treat of the game called *Ludus teſſerarius*, it will not be amiſſe, 1. to clear the word *teſſera* from all ambiguity, The word hath four remarkable ſignifications, all alluding to matters of antiquity. Firſt it ſignified a watc-word among the ſouldiers in the campe, whereby they diſſcerned their enemies, or ſpies, from their own fellows, [o] *Alex. ab Alexandro* giveth many examples hereof: *Auguſtus Cæſar* in his camp, gave for his watch-word *Venus genetrix*; *Pompeius magnus* gave for his, *Hercules invictus* &c. and this was called *Teſſera militaris*. There was *Teſſera frumentaria*, a certain ticket, or token given by the Magiſtrate unto the poor, at the tendring whereof, [p] at the beginning of every moneth, certain doles and meaſures of corn were given; it is evident that at firſt there were ſuch monthly diſtributions of corn, even by that endeavour of *Auguſtus*, who for the avoiding of trouble, would have reduced all to three ſet diſtributions in the year, but prevailed not; ſometimes in ſtead of corn, or happily over and above the corn, there were at certain times, doles of money given to the poor, which dole whoſoever received, tendered his token or bill of exchange, termed *Teſſera numiraria*; theſe two laſt acceptations, though they may be diſtinguiſhed, yet becauſe they both tended to the reliefe of the poor, I have joyned them together. Thirdly, there was *Teſſera hoſpitalis*, a certain token of wood, or ſuch like matter, which uſually was cut in two by thoſe who had engaged themſelves mutually to entertain each other, wenſoever entertainment ſhould be craved, yea this wooden ticket or tally being mutually accepted, it was lawful for their poſterity bringing this token, to challenge hoſpitality. Thus he in *Plautus* having

o Alex. ab Alex. lib. 4. c. 2.

p Suron. Aug. cap. 42.

ving formerly uſed *Antidamus* as his hoſt, after *Antidamus* his death, he cometh unto *Antidamus* his adopted ſonne not doubting of entertainment; for ſaith he, *Deum hoſpitalem, ac teſſeram mecum ſero.* Hence from this cuſtom, or tendring a token when hoſpitality ſhould be craved, that adage hath been derived, *Teſſeram hoſpitii confregit, id eſt*, he hath broken the league of hoſpitality. Laſtly, *Teſſera* ſignifieth a Dye: where we muſt note that the word *Alea*, which commonly is tranſlated a Dye, is a general word, applyed equally both to the *Teſſera*, and the *Tali*, to denote the uncertainty of both games; *Teſſera* properly ſignifieth a Dye; *Talus*, an huckle-bone, ſuch wherewith children play *Cockall.* In determining the ſeveral chances in theſe playes, Authors are not onely diverſe, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their ſeveral and contrary writings, may give light for the right underſtanding of decayed knowlenge herein, I ſhall willingly ſubmit my ſelfe to the cenſure of the judicious. The ſeveral chances which I read of are theſe, ſome ariſing from the number of the points in the Dye, as *Senio*, *Monas.* More uſually amongſt the Grecians, [q] theſe two were termed Κῶες & χίες: ὁ μὲν γὰρ χίες ἐδύνατο τὸ ἓν, ὁ δὲ κῶες ἓξ, *id eſt*, *Chius*, anſwered our *Ace*; *Cius* our *Sice.* And this is confirmed by a proverb in uſe amongſt the *Grecians*; Κῶες πρὸς χίον, which the learned interpret to be, a compariſon of unequals; a Pygmie, with a Giant; others named from the number I read not of. Perhaps they played not with a ſingle Dye, but with three, as we uſe in *Paſſage*, whence their chances might have their name, not from the number of points in each ſeveral Dye, but from them all being caſt But that the *Teſſerae* had points in them, appeareth by the teſtimony of [a] *Turnebus*: And hence *Numeri*, is ſometimes uſed for *Teſſerae*;

[q] Suid. in voce κῶες.

[a] Turneb. adv. l. 5. c. 6.

Seu ludet numeroſq; manu jactabit eburnos,

Ovid. 2. de Art. amand.

That they uſed more *Tali* in their playes, then they did *Teſſeræ*, [b] *Turnebus* obſerveth from that verſe,

Non ſum talorum numero par teſſera. Mart. 14. epig. 15

[c] *Cœlius Rhodiginus* ſpeaketh more diſtinctly, ſaying that in their play they uſed three *Teſſaræ*, but for *Tali*. Theſe *Tali* were ſometimes called *Vulturii*, as appeareth by the ſame [c] *Rhodiginus*, and likewiſe *Reguli* The reaſon of both is rendered by *Turnebus*, he being of opinion that theſe *Tali* had not points in them as the *Teſſeræ*, ſaith *pronumeris effigies animaliũ habebant, vt vulturum, aut regulorum*. That they were termed *Vulturii*, is probable by that of *Plautus*.

Tace parumper, jacit vulturios quatuor. Plaut. curcul. Act. 2. Sc. 3.

But that the cock-all-bones ſhould be called *Reguli*, I ſomewhat doubt, for no queſtion but *Regulus* and *Baſilicus* in this place ſignified one and the ſame thing, the one being the *Latine*, the other the *Greek* word; now *Baſilicus* as ſhall preſently appear, ſignified the whole chance. So confuſed are the opinions of authors herein, that to aſign the reaſon for every chances name, or to reduce every chance determinately, either to the *Teſſera* or the *Tali*, I think it impoſſible. Onely ſome may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*.

The moſt fortunate chance, *Venus* or *Baſilicus*. [f] *Lipſius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old cuſtom of throwing theſe cock-all-bones at their feaſts, for the choice of their *Modiperator*, or maſter of the feaſt, which ſhould preſcribe laws for drinking to the whole company.

Venus arbitrium.

Dicet bibendi. ſaith *Horace*.

Facto

b Turn. adv. lib. 6. cap. 10.

c Cœl. Rhod. lib. 20. c. 17.

d Cœl. Rhod. lib. 10. c. 18.

e Turn. adv. lib. 5. cap. 6.

f Lipſ. antiq. lect. l. 3. c. 13.

Jactio Baſilicum, propino magnum peculum

Saith *Plautus*, *curcul*: and why may not this caſt be juſtly termed *Baſilicus*, ſeeing the *Magiſter* hereby deſigned, was by the *Grecians*, not onely called συμποσιαρχ, but alſo βασιλεὺς *King*, *Prince*, or chiefe commander at the table. This caſt was then thought to be throwne, when all foure cock-all-bones appeared not one like the other, but all with different faces, *Venus conſurgebat ex talis quatuor jactatis, ubi diverſam omnes oſtendiſſent faciem*: with whom accordeth h *Turnebus*; *Venus erat, cùm nullus eodem vultu ſtabat talus.* *Hercules* was alſo a lucky throw, but whether the ſame as *Venus*, I have not yet learned.

g Cœl. Rhod. lib. 20. c. 27.
h Turn. adv. lib 5. cap. 6.

The games with the *Teſſera* I make no queſtion were divers; the ignorance of which, they being long ſince out of uſe, hath cauſed much obſcurity in this matter: one game there may ſeem to have been in uſe, where the juſt number of eight ſeemeth to have been the chiefe Caſt, it was called i *Steſichorus*, *jactus*, or *Steſichorius numerus*. The reaſon is rendred by *Rhodiginus*, becauſe *Steſichorius* his tomb, erected at great charges for greater magnificence, *Ex octonis conſtabat omnibus, id eſt*, conſiſted of many eights; to wit, *eight angles*, or corners: *eight columns*; *eight ſteps*, or grieces. In their common game, the moſt fortunate throw is thought to have been three *Sices*; we call it in *Paſſage*, a *Royal Paſs*, whence it was commonly called *Scenio*;

i Cœl. Rhod. lib. 20. c. 27.

— *Quid dexter ſenio ferret*
Sciro erat in votis, damnoſa canicula quantum
Raderet, anguſtæ collo non fallier orcæ. Perſ. Sat. 3.

Which one place of *Perſius* giveth light to this in three things. Firſt, that the winning caſt was termed *Senio*; and if you make *Baſilicus* a term common both to dice and cock-all-bones, as *Venus* is, we may fitly render it, a *Royal paſſe*. Secondly, the loſing caſt, *Canis* or *Canicula*, in Engliſh a *Dogge-chance*. Thirdly the manner of their play, both in their Dice, and Cock-all-bones, was by caſting them not immediately

diately out of their hand, but out of a dish or narrow mouthed vessel, that there might be fair play, without striking or cogging the dye; this vessel *Persius* calleth *Orca*, and describeth it to have a narrow mouth, and a streight neck. *Ho-* applyeth it to the *Tali*, *Satyr.* 7. l. 2.

Mitteret in Pyrgum tales----

Calling it *Pyrgus*, using the Greek word Πύργος a Tower or Steeple, so called from πύρ fire, because the form thereof being *acuminata* resembleth the rising of fire; the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Persius* his *Orca*. But to return to the game, the chiefe cast as I said was thought to be when three *Sices* appeared: which opinion is strengthened by that common proverb; *Aut tres sex, aut tres tesseræ, id est*, either three *Sices*, or three *Aces*. And the first of these being the best, the other the worst chaunce in the Dice, the proverb implyeth thus much, I will put all to the hazard, I will win all or lose all. This cast was also called *Midas*; for as *Rhodiginas* speaketh, *In tesserario ludo Midas jactus: erat fortunatissimus*; with whom accordeth [k] *Dempster*, proving it out of *Suidas*;

k Dempst. ant q. Rom. l. 5. cap. 1. l.

Μίδας ὁ ἐν εὔβοισιν ἀβουλότατος.

Midas in tesseris consultor optimus.

This name signifieth the best chance, yet was not appropriated to the *Tessera*, but sometimes also signified the fortunatest chance of the *Tali*. Likewise from that of *Mart. l.* 13. 1.

Senio nec nostrum cum cane quassat ebur.

It is noted by [l] *Erasmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*, so that *Senio* and *Canicula* appeared together at one throw, it was a losing cast. *Suetonius* is clear in the proof hereof, if for *Aut* we substitute *Et*, which unlesse we do, it will be a matter of great difficulty, to make congruity of sense. His words are, *Talis enim jactatis, ut quisq; Canem aut Senionem miserat in singulos talos, singulos denarios in medium conferebat, quos tolebat universos qui Venerem jecerat.* Turn *Aut* into *Et* the sense is obvious.

l Erasm adag. Chius ad Coum.

Look

Look who threw an *Ace* and *Sice* together, for every Dye he Staked and layd to ſtake a Denere; which he took up and ſwooped all cleane, whoſe luck it was to throw *Venus*. *Euripides* as I take it was not a chaunce, but a kinde of game, much reſembling that which is in uſe with us, called *one and thirty*: The number of that game was *fourty*, and the game called *Euripides*, becauſe *Euripides* was one of the fourty chiefe Governours in *Athens*, when the thirty Tyrants were depoſed. The reaſon of my conjecture is taken from [n] *Rhodiginus* whoſe words are theſe: *Euripides numerum continebat quadragenarium, quoniam videtur unus fuiſſe Euripidis præfectorum quadraginta, poſt triginta Tyrannos Athenis exactos*: from all we may note, that the *Jactus pronus*, or *Jactus plenus*, that is the lucky caſt, we may Engliſh it *Take all*, was commonly called *Senio*, *Venus*, *Cous*: the *jactus ſupinus*, or *jactus inanis*, was likewiſe commonly known by no other name then *Canis*, *Canicula*, or *Chius*, we may Engliſh it *Blank*.

[n] Cœl. Rhod. lib 20. c. 17.

[o] Some have delivered their mind touching theſe plaies thus; that the *Tali*, or cook-al-bones had but four faces or ſides, and therefore yeelded four chances, and no more; the firſt is called *Canis*, or *Canicula*, or anſwering to our *Ace*, and it was the worſt of all; the oppoſite unto it they terme *Venus*, or *Cous*, and is accounted the beſt: *Merula* againſt ſenſe underſtandeth the number of ſeven by it; it may ſtand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the laſt *Senio*, which is as much as *Quatre*. For in theſe *Tali* there is no chance of *Deaur*, or *Cinque*. This opinion at firſt I confeſſe ſeemed plauſible to me, but how fully it diſcovereth the game, and how agreeable it is to antiquity let others judge. The chances of the Dice, or cock-al-bones, as they were termed *Jactus & Miſſus*. caſts; ſo alſo were they called [p] *Manus*, figuratively, as every ſtroke in the fencing ſchoole was termed *Manus*. The firſt acception of *Manus*, is proved out of [q] *Suetonius*, 72.

[o] Barthol. Merula in Ov'd. de art. Amand. lib. 2.

[p] Lipſ. Satur. lib. 2. cap 20

[q] Suet. Aug.

were *Auguſtus Cæſar* ſpeaketh thus, *Si quas manus vemiſi cuiq; exegiſſem, aut retinuiſſem quod cuique donavo, viciſſem, &c. id eſt*, If I had exacted thoſe chances which I remitted every one, and kept that which I beſtowed, I had gotten, &c. The ſecond acception of *Manus* is confirmed by *Quintilian*, who calleth the ſecond, third, and fourth ſtrokes in fencing, *ſecundas, tertias, & quartus manus.* Our Engliſh phraſe is not much unlike; he hath had a good or bad, lucky or unlucky *Hand.* Another game there was of like nature played with table-men: the word *Latrunculus* tranſlated a table-man, did properly ſignifie an hired ſouldier, ſuch a one as ſerved for pay; whence *Latro*, whoſe diminutive *Latrunculus* is, hath his denomination ἀπὸ τῦ λατρεύειν ἀ ſerviendo. In this ſenſe the word is uſed by *Plautus*;

Nam Rex Seleucus me opere oravit maximo,
Ut ſibi latrones cogerem, & conſcriberem.

Secondly, becauſe ſouldiers are ſo prone, and apt to commit robberies; hence *Latro*, and *Latrunculus*, hath been uſed alſo to ſignifie a theef or robber. And thirdly, in a borrowed ſenſe, theſe words are applied to ſignifie table-men or cheſſ-men; becauſe this game hath the expreſſe from and repreſentation of a war, or battaile, fought between two armies; *Inſomuch that* [t] *Pyrrhus* King of *Epire*, being skilful in plotting ſtratagems, firſt taught his ſouldiers that art of projecting, by playes and repreſentations thereof in the table-men. *Some are of opinion, that it was firſt invented in the ſiege of Tray*, by *Palamedes*, who that he might keep his ſouldiers in better order, allowed them this kinde of recreation, whence theſe cheſſ-men are ſometimes called *Palamedia ci calculi*: they were made ſometimes of wax, ſometimes of glaſſe, ſometimes of other matter. The game ſeemeth to have been the very ſame with that which we call *Cheſſe.* Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum, Diſcus, Pila, Trochus, Nuces.* Πέταυρον, from whence this latin word

Petaurum

r Quint. l. 5. cap. 14.

f Plaut. mil. glor. Act. 1. Sc. 1.

t Donat. in Terent. Eun. Act. 4. Sc. 7. ad illud, Idem hoc jam Pyrrhus fecit avit

u Suidas in Voce τάβλα.

Petaurum cometh, signifying properly a perch or pole, on which poultry roust: and hence the rope or staffe on which light persons were wont to dance, and try masteries, was termed *Petaurum*. It signified also a certain hoop, or wheele, through which active persons would run swiftly, their body so warily carried, that in their running they would not touch the hoop or wheele; to this purpose *Alex. Neoph*, speaketh; *Fuit* [a] *quoq; Petauri ludus admirationis præcipuæ, cum per circulos quispiam veloci cursu transolvat, corpore ita librato, ut circulum non offendat.* Such tumblers as were practized in this kind of activity were thence called *Petauristæ*. *Discus*, was a round stone in manner of a bowle, sometimes made of iron, or brasse, whosoever could cast it farthest got the victory; the players thereat were called δισκοβόλοι, from δίσκος & βάλλω to dart, or cast out any thing. *Pila*, it signifieth a ball and of it there were many sorts. 1. *Harpastum*; which we may English a *Foot-ball*. [b] This ball being put down in the the middle, two companies of young men strove who should drive it thorow the others goale. 2 ly. *Pila*, which signified a distinct kind of ball, so called from the hair with which it was stuffed. 3 ly. *Follis*, a light kind of ball, so called because it was stuffed with a bladder; with this old men, and young children played. 4 ly. *Paganica*, this had his name *à pagis*, from villages and country townes, where it was chiefly in use, it was stuffed with feathers; of all these *Mart.* 14.45.

Hæc quæ difficilis turget paganica plumâ
Folle minùs laxa est, & minùs arcta pilâ.

Fifthly *Trigonalis*, and thus I think both the *Pila* and the *Follis* were called, in opposition the *Paganica*; the reason of the name is taken from the form of the tennis-courts, which because they were three square, in manner of a triangle, [c] hence was the ball with which they played in such courts termed *Trigonalis*. The players themselves were termed *factores*; those that did cast the ball into the court, were called simply *datores*; and [d] hence *datatum ludere*, is to play at ball

a Alex. ab Alex. l. 4. c. 21.

b Alex. ab Alex, ibid.

c Cœl. Rhod. lib. 20. cap. 18.

d Tureb ad vers. l. 7. c. 4.

ball, or elſe we may imagin the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let down the ball, did *ſuram dare*, hold out their leg, to have the ball flung at it. *Trochus*, it ſignifieth a top; as it was commonly called *Trochus* from τρέχω to run; becauſe of the ſwiftneſſe the eof: and likewiſe *Turbo* in Latine, for the ſame reaſon; ſo ſometimes it wascalled *buxum*, from the matter whereof it was made, as

——*Buxum torquere flagello*, *Perſ. Sat.* 3.

Nuces, with nuts they had many playes, ſome of which are at this day in uſe. One holding an uncertain number of nuts in his hand, his fellow that plaid with him, was to divine whether the number was *Even or Odd*. This *Horace* calleth

Ludere par impar ——

The *Grecians* ζυγὰ ἢ ἄζυγα. Of this *Ovid de nunce*,

Eſt etiam, par ſit numerus qui dicat, an impar:
Ut divinitatas auferat augur opes.

Sometimes they piled their nuts, three beneath and one on the top, in manner of a Caſtle; of this *Ovid* ſpeaketh likewiſe,

Quatuor in nucibus non amplius alea tota eſt,
Cum ſibi ſuppoſitis additur una tribus.

Yea, theſe nut-games were ſo many, and ſo peculiar to children, that ſtriplings growing into mans eſtate, were ſtill reputed children, until they forſook theſe nut ſports; whence *nucibus relictis* ſounds as much as childiſhneſſe being paſt: and this is thought to be the reaſon, why the [e] brideman, as ſoon as he was married uſed to caſt nuts among the people; intimating thereby a farewel to ſuch childiſh paſtimes, many other childiſh games they had, among which one reſemble our *croſſe and pile*; [f] they termed it *Capita vel navim*; becauſe the coyn which they fillipped or toſſed into the air, bore ſtamped on the one ſide *Janus* his two faces, on the other ſide a ſhip.

[e] Roſin. ant. Rom. lib. 5. c. 27.

[f] Anton. Conſtant. in Ovi. Faſt. 1.

CAP.

Cap. 14.

De mensis & conviviis Romanorum.

BEfore we proceed to the description of the *Roman* tables, we will explaine those five termes, *Jentaculum, Prandium, Merenda, Cœna, & Commessatio.* Which five words do signifie the five several feedings each day, which children, old men, labourers, travellours and such like, did usually observe; for others of healthier and stronger constitution did commonly eat but one meal, at the most but two in the day. *Jentaculum* signifieth their break-fast, and it had its name, like as our English word hath, *à jejunio*, from fasting: In former times it was called [a] *silatum* from *Sile*, the name of a certain herb, with the root whereof they were wont to season that wine which they had at break-fast: for as [b] *Plutarch* saith, their break-fast was nothing but a sop dipped in wine. In the same place, he likewise saith, that in old time they had no dinner, but that which we call *Prandium* was the same with them as *Jentaculum*, and thus much the Greek word ἄριστον signifieth a dinner, doth intimate, it being so called, *quasi* ἀὔριστον, from ἀὔριον, which signifieth the morning. The name *Prandium*, which we render a dinner, was so said *quasi* πρὸ ἕσπερον, signifying Noon-tide, or mid-day. The third time of taking meat, was called *Merenda*, we may english it our afternoons beaver; it was called also *Anticœnium*, because it was taken a little before supper. [c] *Merenda est cibus qui declinante die sumitur, quasi post meridiem edendus, & proximè cœnæ; unde & antecœnium à quibusdam dicitur.* The fourth time was their supper; called *cœna, quasi* κοινὴ, which signifieth as much as *Common*, [d] *quia antiquitùs seorsim solebant prandere Romani, cœnare cum amicis.* Their fift and last time of feeding, was called in Latin *Commessatio* by some, by most *Comessatio*, *à comedendo.* [e] *Jo-*

[a] Rosin. antiq. lib. 5. 27.

[b] Plut. in sym. lib. 8. q. 6.

[c] Iust. Lipsi. cons. 1. c. 63.

[d] Plut. sym. li. 8. q. 6.

[e] In orat. pro M. Cœlio.

Annes Triſtinus ſaith, that it is a beaver taken after ſupper, or a night drinking. But the chief feaſt, whereat they f gave entertainment, being their ſupper, we will conſider theſe three things therein. Firſt *accumbendi vel diſcumbendi rationem*, that is the manner of their lying at ſupper (for they did neither ſtand, nor ſit at table, as we do; ſecondly, the forme and faſhion of their table; and laſtly the parts of their ſupper. The place where they ſupped was commonly called *Cœnaculum à cœna*, as our *dining chamber* is ſo called from our *dinner*. It was alſo called *Triclinium* or *Biclinium*, from κλίνη a bed; for ſometimes there were three beds, ſometimes but two about the table, upon which the gueſts did ſit, or rather lie along. In this dining parlour was placed a table, ſometimes made quite round, and for the common ſort of people it was made of ordinary wood, ſtanding upon three feet; but for men of better rank, it was made of better timber, inlaid ſometimes with wood of divers colours, ſometimes with ſilver, and it ſtood upon one whole entire foot, made of Ivory, in the form of a great Lyon, or Leopard &c. Unto the meaner ſort of theſe tables *Horace* alludeth;

f Lazius de repub. Rom. l. 3. cap. 3.

—*Medò ſit mihi menſa tripes. Hor. Ser.* 13.

Unto the other, *Juvenal. Sat.* 11. *verſ.* 122.

—*putere videntur*
Unguenta atq; Roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the form of an half Moon, the one part thereof being cut in with an arch or ſemi-circle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, g which as it appeareth by certain marble monuments, was in old time made like a Roman *C*. Hence is that of *Martial. lib.* 14. 87.

g Rom. antiq. l. 3. c. 18.

Accipe lunatâ ſcriptum teſtudine Sigma.

If any man ſhould demand the reaſon, why they cut their table in that forme, I muſt confeſſe I have not read any reaſon in any author bearing ſhew of probability. My conjecture

jecture is this; it is agreed upon by moſt authors, that in the round tables the one quarter was reſerved void from gueſts that the waiters might have a convenient room to attend; thereupon it ſeemeth not improbable unto me that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been tranſlated diverſly by divers writers, as it appeareth by *Lipſius* in the fore-quoted place. By ſome it hath been taken for the parlour, or ſupping chamber; ſo *Lipſius* in his *Antiquities*; by others for the ſupper or feaſt it ſelfe; ſo *Celius*. By *Lipſius* ſince it hath been thought a certain place, erected in the mauner of a ſemi-circle, or halfe Moon, againſt which they did place one continued bed, able to take ſix or ſeven gueſts. But *Brodeus* and *Ditmarus*, in my opinion, have more truly taken it for the table it ſelfe. About the table that was perfectly round, were placed three beds, covered with tapeſtry, or ſome other kind of covering, according to the wealth and ability of the perſon, and thus

——— *Strato diſcumbitur oſtro*;

the beds being ready furniſhed, the gueſts lie down in manner as followeth. Each bed contained three perſons, ſometimes four, ſeldom or never more, except at their great and more ſolemn feaſts. If one only lay upon the bed, then he reſted the upper part of his body upon his left elbow, the lower part lying at length upon the bed; but if many lay upon one bed, then the uppermoſt did lie at the beds head, laying his feet behinde the ſecond his back; the ſecond reſted his head in the others boſome, having a cuſhion put between, laying his feet behinde the third's back: in like manner the third and fourth did lie. The number of the gueſts was not great, ſeldome times exceeding nine; whence *A. Gellius* [h] ſaith, that the number of the gueſts ſhould begin with the *Graces*, and end with the *Muſes*, that is, they muſt not be fewer then three, nor more then nine. This alſo hath been the reaſon of that adage, *Septem convivium, novem convivium*

[h] A. Gel. noct. Art. l. 13 c. 13. Tribus aut novem miſcentur cyathis pocula commodis, qui muſas amat impares, Ternos tercyathos attonitus petet Vates; tres prohibet ſupra Rixarum metuens tangere Gratia Nudis juncta ſororibus. Hor. carm. l. 3. Od. 19. Alex. Gen. dier. l. 5. c. 22.

vitium faciunt. *Heliogabalus* ſeemeth to have been delighted with the number of eight, [k] whence he invited to ſupper *octo calvos, octo luſcos, octo podagroſos, octo ſurdos, octo rancos, octo inſigniter nigros, octo inſigniter longos, octo præpingues, & octo naſutos delectatus illo Græco proverbio, ἀπαρτοκτὼ.* Thoſe that were not invited, but came of their own accord unto a feaſt without bidding, by *Plautus* they are called *Muſcæ*, flyes; by others they are called *Umbræ*, ſhadows. Hence is that of *Horace*,

[k] Stuckius de convi. l. 1. c. 2.

——*Locus eſt & pluribus umbris.*

The party which invited the gueſts, ſometimes expreſſed his earneſtneſſe by pulling and haling one by the cloake; whence *Stukius* obſerveth, that when they would ſhew how earneſtly they were invited, they would ſay *Penulam mihi ſciſſit*; he tore my cloak off my ſhoulder. Again on the other ſide, when they would ſhew how eaſily the gueſt was intreated, they would ſay, *Illius ego vix tetigi penulam, tamen remanſit.* Before the gueſts ſate down, their ſhooes were uſually pluckt off, that they might not foul the beds on which they did lie;

[l] Terent. in Heautont.

Accurrunt ſervi, ſoleas detrahunt,
Video alios feſtinare lectos ſternere, cœnam parare.

[m] Cœl. Rhod. l. 27. c. 16.

[m] They likewiſe did gird their heads with fillets and hairlaces, as often as they intended to drink more then ordinary, thereby to prevent the vapors, which otherwiſe would annoy the head: for which reaſon, they did likewiſe [n] uſe garlands of Ivy, and Mirtle tree, and Roſes; the coolneſs of which comforted the braine. Theſe garlands were alſo *Symbolum plenæ libertatis*, a token of their full liberty. The Carver in theſe feaſts was called from his artificial ſetting and ordering the diſhes upon the table, *Structor*; and from his artificial carving and cutting up of the diſh, *Carerior*. *Tryphæus*, as appeareth by *Inven. Satyr.* 11. was famous for his skill in carving: he did ſet up a ſchool, teaching ſuch as came unto him by rules and precepts; and alſo ſhewing them the

[n] Plin. l. 6. c. 2.

manner

manner of carving; which that he might the better doe, he furnished a table with several dishes of meat, formed and fashioned in wood, with a dull knife; shewing his schollers after what manner, and with what gesture of their body, they would cut up this or that dish. This supper because of the wooden dishes of meat, was callen *Cœna ulmea.* They divided their supper usually into three parts, which they termed their first, second and third course. In the first course commonly was served mulberries, lettices, sausages, and alwayes *Eggs*: as likewise in the last course (whether the second or third) were served nuts, figs, grapes, but alwayes *Apples*: [p] whence we say proverbially. *Ab ovo ad mala* from the beginning of the feast to the end; or simply from the beginning of any thing to the end thereof. The middle course was the main supper, and the chief dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase it is called [q] *Fundus & fundamentum cœnæ.* Their first messe they called the *proœmium*; the last, the *epilogue*; which because it consisted so much of sweet and delicious meats, hence did they apply that unto the second course, *δεύτεραι φροντίδες σοφῶ τέκνα*, *Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia*: *Recta* in this place signifieth as much as *vera*; thus ὀρθὸς among the *Grecians*, sometimes signifieth *verus & sincerus.* The phrase intimateth, that it was a true supper, opposed to that dole of meat distributed by Princes to the people, which from the panier or basket in which it was brought, was called *sportula*; sometimes they distributed money in stead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta.* Yea sometimes by *sportula* we may understand a light and short supper.

Promissa est nobis sportula, recta data. Martial.

The reason why a great feast should be termed *cœna dubia*,

a Stuck de couv. l. 3. c. 3.

p Pancirol. lib rer. deperdit. cap. de c bi capiendi modo.

q Stuck. lib. 3. de conviv.

r Turneb. obv. lib. 5. cap. 10.

is, because in such variety of dishes the guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.

LIB

Lib. 3. Sect.

of the Roman *Aſſemblies.*

De Comitiis.

HItherunto have we inſiſted upon the deſcription of the moſt remarkable parts of the *Roman* City, together with the ſeveral diviſions of the *Roman* people, as alſo the *Roman* Religion; where we have ſeen the general diviſions of their Gods, and their ſacrifices, with their ceremonies thereunto belonging, and likewiſe of the *Roman* Games both greater and leſſe. Now are we to proceed to that part of government, which is political or civil; where we will firſt ſpeak of their aſſemblies, called *Comitia*, then of their civil Magiſtrates, afterwards of their puniſhments, and laſtly of ſo many of their civil laws as I have obſerved needful for the underſtanding of *Tully*, and that principally in his Orations. For the more eaſie conceiving of all which I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*, the knowledge of which is needful for that which followeth.

Cap.

Cap I.

De Anno & partibus ejus.

INasmuch as there cannot be a full knowledge of the *Roman* assemblies, without some general understanding of the *Roman* year, and the general distinctions of the *Roman* daies, it cannot be but worth our labour in this short chapter briefly to consider what may be spoken therein. This word *Annus*, is so called *quasi Annulus*, because as the Greeke word Ἐνιαυτὸς signifieth ἐν ἑαυτῷ ἴσῃ, *id est, in se convertitur annus*; which was the reason, why the Egyptians in their mystical cyphers (called *literæ hieroglyphicæ*) did use the picture of a serpent, having his tayl in his mouth, to signifie an year. The time or space of this year hath been diverse, according to the diversity of nations. [a] Some allowed no more daies to an year, then we do to a month: whence that mothly space which the *Latines* called *Mensis* from [b] μῆνη, signifythe Moon, they called *Annum Lunarem*. Some allowed four moneths, some six months, some ten. And thus *Romulus* measured his yeare, counting the moneths either from the number of our fingers, or from the time that a woman goeth with child, or frome the time that a widow commonly mourned for her husbands death, or lastly from the multiplication of unities, which in a simple number doth no: exceed ten.

a Vid. Plin. l. 7. cap. 48.

b Paulus Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,
Hoc anno statuit temporis esse satis.
Per totidem menses à fœtere conjugis uxor
Sustinet in viduâ tristia signa domo. Ovid. Fast. lib. 1.
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit,

Seu

Seu quòd ad nſg, decem numero creſcente venimus,
Principium ſpatiis ſumitur inde novis. Ovid. Faſt. lib. 3.

Thus *Romulus* his yeare contained of months ten; of dayes 304. But after this *Numa* added two months.

At Numa nec ſa rum, nec avitas præterit umbras,
Menſibus antiquis addidit ille duos. Ovid. lib. 1. *Faſt.*

Numa, *c* or as ſome ſay, *Tarquinius Priſcus* perceiving that the months did not alwaies fall out alike every yeare, but ſometimes the ſame moneth would happen in the ſummer, ſometimes in the winter, thereupon after long ſtudy & many inſtructions from the *Grecians*, finding the reaſon of this confuſedneſs, he added unto *Romulus* his yeare fifty dayes, ſo that the whole yeare afterward was divided into tvvelve months, becauſe the moone had finiſhed her courſe tvvelve times in that ſpace, beginning their yeare then at January, becauſe then in his judgement vvas the fitteſt time to begin the yeare, vvhen the Sun being fartheſt from us, did beginne to turne his courſe, and to come unto us againe; vvhich is about January, the Sun being about the Tropick of Capricorne. Afterwvard upon a ſuperſtitious conceit of the odde number, *Numa* added one day more unto January, ſo that vvhereas at the firſt *Numa* his yeare did agree vvith the *Grecian* yeare, both of them containing three hundred fifty four dayes, novv the *Roman* year contained three hundred fifty five dayes, vvhich computation falling out too ſhort for the true yeare by the ſpace of ten dayes, and ſix houres yearly, it occaſioned every eighth year, in the interpoſition of 3. vvhole months, vvhich they called their leap yeare: *d* This confuſedneſs afterwvard *Julius Cæſar* by long ſtudy remedied, adding the old ten dayes unto *Numa Pompilius* his year. And leſt the odde ſix houres might at laſt breed diſorder in their computation, he appointed, that every fourth year one vvhole day ſhould be inſerted, next after the three & twentieth of February; which inſerting they called *Intercalatio* from an old verb *Intercalo*, and that day they called *Intercalarem:*

c Vid. Georg. Merulam. in orat. pro Q. Ligario.

d G. Merula in orat. pro Q. Ligario.

Now the day following, being the foure and twentieth of February, was alwaies the sixt of the Kalends of March, *e* and therefore becauſe of the interpoſition of that day, they cal-led the leap-yeare *Annum biſſextilem*, that is, the yeare where-in there falled out two dayes which they called *Sext: Cal: Martii*. And the day thus interpoſed was called *dies biſſextus*. This computation, which *Julius Cæſar* found out, we have imbraced, and do at this day follow, calling our yeere *Annum Julianum*, *f* and *Annum magnum*, having relation to the monthly yeare called *Annus Lunaris*; & ſometimes this great yeare is called *Annus vertens*, *à vertendo*, becauſe it is always turning, and running on. † Moreover we muſt re-member that the *Romans* did begin their yeare at March, whence that month, which ſince hath been called *Julius*, in the honour of *Julius Cæſar*, was by them called *Quintilis*, becauſe it was the fift month: and that month, which ſince hath been called *Auguſtus*, in the remembrance of *Auguſtus Cæſar* was by them called *Sextilis*, becauſe it was their ſixt month. Thus then the great yeare being divided into twelve months, every month was divided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*: The *Kalends* were ſo pro-per unto the *Romans*, that *g Auguſtus Cæſar*, when he pur-poſed never to do what he was requeſted, was wont by way of proverb to ſay, that he would do it *Ad Calendas Græcas*, that is to ſay in our Engliſh proverb, At latter Lam-mas, never. For the better underſtanding of which, I ſhall inſert three common verſes.

e G. Merula in orat. pro Q. Ligar.

f Roſin. ant. Rom. lib 4.

† Hubert. l. 3. epiſt. fam. 18

g Suet. Octav. Aug. cap. 87.

Principium menſis noſtri dixêre Calendas:
Sex Maius Nonas, October, Iulius, & Mars,
Quatuor at reliqui: tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month, The 2. 3. 4. 5. 6. and 7. of theſe foure months, May October, July, and March, were called the Nones of that month: but in all the other months the Nones contai-ned but the 2. 3, 4. and 5. day: ſo that the 5. day (for example-ſake)

ſake) of January was called *Nona Jannarie*, or *Januarii:* the fourth *Pridie Nonarum*, or *Nonas Jan:* (For they uſed alwayes to ſay *Pridie Cal: Pridie Nonar*: and *Pridie Iduum*, inſtead of *ſecundo Cal. Non: Id.*) The third day of January they called *tertium Nonarum, vel Nonas Januar*: the ſecond day of January they called *quartum Nonarum, vel Nonas Januar*: After the Nones followed the Ides, which contained eight dayes in every moneth, ſo that the 15 day of the four aforeſaid months, was called *Idus Maii*, *Idus Octob*: *Idus Julii* and *Idus Martii*. In all the other months, the 13. day was the Ides: as to proceed in Janaury, the thirteenth day was called *Idus Januar*: the twelfth *Pridie Iduum*, *vel Idus Januar*: the eleventh *tertio Iduum*, or *Idus Jan*: the tenth *quarto Iduum*, *vel Idus Jan*: the ninth 5. *Id: Jan*: the eight 6. *Id: Jan*: the ſeaventh 7. *Id: Jan*: the ſixt 8. *Id: Jan*: After the Ides then followed the Kalends of the next month. As the fourteenth of January was *decimo nono Calendarum*, or *Calendas Februar*: the fifteenth *decimo octavo Calendarum*, or the ſixteenth *decimo ſeptimo Cal: Feb: &c.* Where we muſt note that as often as we uſe *Pridie, tertio, quarto*, or any of thoſe numerals with an accuſative caſe, as *Pridie Calendas &c.* the *Grammarians* ſay that this præpoſition *Ante* is eclipſed. Againe every month had in its compaſs three great markets, which becauſe they were obſerved every ninth day were called *Nundinæ*, and the latter of them being the greateſt is called by *Athenæus* τρίτη ἐκκλησία, which we may render *Trinundinum*, or *Trinum nundinum*. It followeth now that I ſhould treat of the dayes, which are the leſſer parts of the year: where before we proceed, we will conſider the parts which the *Romans* divided their day into.

Dies Civilis continet

Lucem, cujus partes sunt

Diluculum. The breake of day.
Mane. The full morning.
Ad meridiem. The fore-noone.
Meridies quasi Merides, Mid-day, or *quasi Merus dies.* Perfect day, noone.
De Meridie. After noone.
Solis occasus, Sunne setting.
Crepusculum. The Duske of the evening
Prima fax. Candle tinding.
Vesper. The night.
Concubium. Bed time.
Nox intempesta. The first sleep.

Noctem, cujus partes sunt

Ad mediam noctem. Towards mid-night.
Media nox. Mid-night.
De media nocte. A little after mid-night.
Gallicinium. Cock-crowing.
Canticinium. All the time from cock crowing to the break of day.

The day and night again were each of them divided into *primum, secundam tertiam, & quartam vigiliam,* every watch containing three houres. The first of the night being at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by severall notes and sounds of Cornets, or Trumpets, that by the distinction and diversity thereof, it might easily be knowne what watch was sounded. Moreover we must understand that the *Romans,* upon a superstitious conceit & observation of misfortunes, and evill events falling out on some dayes, and more happy success upon others, have called the former sort of dayes *Atros dies,* or *dies postridianos, & Ægyptiacos: ἀποφράδας Græci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Postridiani,* was because they thought *Dies Postridie Calendas, Nonas, & Idus, id est,* The next day after the Calends, Nones, or Ides of every month to be unfortunate, & the latter sort they called *Albos*

g Alex. Gen. lib. 1 cap. 12.

Albos dies, *h* borrowing the names from the *Scythians*, who used to chalke out the fortunate dayes in their Kalenders with vvhite Characters, vvhence *Horace* saith.

Cressâ non careat pulchra dies notâ.

Other-some, as their unfortunate and unluckly dayes, vvhere noted vvith a cole or black Character, according to that,

Nigro carbone notatus.

Againe their Kalender distinguished some dayes for Holy-dayes, which they called *Dies festos*, festivall dayes, or *dies Feriatos*, & *Ferias*, Holy-dayes *i* because they did upon such dayes *Ferire victimas*, *id est*, offer up sacrifices. Others were distinguished for working dayes, which they called *Profestos*, *quasi procul à festis*. The third distinction was of halfe holy-dayes, which *ab intercidendo*, they called *Dies intercisos*, as it were dayes cut asunder: the one part of them being allotted for worldly businesse, the other for holy and religious exercises. *k* The *feriæ* were either *privatæ*, and so they belonged sometime to whole families, as *Familiæ Claudiæ*, *Æmiliæ*, *Juliæ*, &c. sometimes to private persons, as every one his birth-day, particular expiations, &c. or else they were *Publicæ*, such as the whole common-wealth did observe: and they were of two sorts, and one called *Anniversariæ*, which were alwayes to be kept on a certaine day, *l* and thereupon they were called *feriæ stativæ*; the other *conceptivæ*, which were arbitrary, & solemnized upon such dayes as the Magistrates and Priests thought most expedient, whereof the *Latenæ Feriæ* were chief: which *Latinæ feriæ* were kept on mount *Alban* to *Jupiter Latian*, for the preservation of all the Latine pepole in league and confederacy with the *Romans*, & were solemnized in memory of the truce between those two nations. Those *Feriæ* which were called *Imperativæ*, and *m Indictivæ*, because the *Consul*, *Prætor*, or cheif Pontify, according to their pleasure *imperabant*, & *indicebant has*, *id est*, commanded them,) may in my opinion be contained under the nmber of *Feriæ conceptivæ*, in respect of the un-

h Vid. Erasm. Adag. unione signare.

i Ascensus. in eqist. 3 illusto vir. lib 2.

k Rosi. ant. lib 4. cap. 3.

l Alex. Gen. dier. l. 5. c. 7.

m Alex. Gen. dier. 6 c. 4. Serv. Æne. id. lib. 12.

certainty of them. Another diſtinction of dayes is found in the *Roman Kalendar*, to have been in *Faſtos*, whole court or leet-dayes; *Ex parte Faſtos*, halfe court-dayes; *Nefaſtos*, Non leet-dayes; though this word *Nefaſtos* be often expounded unlucky, as in that of *o Horace* touching the tree, *Ille & nefaſto te poſuit die*, that is he planted thee in an unhappy time. Theſe dayes were called *à fando* from ſpeaking; becauſe upon thoſe dayes which were *faſti*, the *Prætor* or L. chiefe Juſtice might lawfully keep court and adminiſter juſtice, which was not done without the ſpeaking of theſe three words, *Do*, *Dico*, and *Addico*; p *Dabat actionem*; *Dicebat jus*; *Addicebat tam res quàm homines*. Where by the way we muſt note, that ſometimes theſe court-dayes were alſo called *dies comitiales*, becauſe that *p* upon every ſuch day which was noted in the Kalendar for a comitiall day, if the publique aſſemblyes were not held, it was lawfull to keep court: whence not only *comitialis dies* doth ſignify a law day, but *comitialis homo* alſo doth ſignify a wrangler in the law, or a litigious perſon.

o Carminum l. 2. Ode 13.

p Joach. Camerar. pro Flacco.

q Berſman. in ſuis annot. in Rom. Calen. ad finem, Ov. Faſt.

Cap. 2.

De Comitiis idq; Calatis præipuè, de Rogationibus, & antiquâ ſcribendi ratione.

EVery aſſembly of all the *Roman* people being called together by a lawfull Magiſtrate to determine any matter by vvay of giviing voyces, is *à coeundo* termed *Comitia* ſimply, without the adjection of any other word; or *Comitia calata*, that is aſſemblies called together, from Καλέω, or the obſolete Latine verb *Calo*, vvhich ſignifieth to call: though aftervvard thoſe aſſemblies only vvhich vvere held either for the inauguring of ſome Pontify, ſome *Augur*, ſome *Flamen*, or him that was called *Rex ſacrorum*, or for the making of their wills and teſtaments, were called *Calata comitia*. Whence

Whence the will that was made in these assemblies was called *Testamentum calatis comitiis*. This kind of assembly is somtimes called *comitia a pontificia*, and *comitia sacerdotum*, in that sence as others are called *Consularia*, or *Ædilitia comitia*; namely because the Pontifies in these, as the *Consuls* & *Ædiles plebis* in the others, were chosen. There followveth three other kinds of assemblies: for either the people did assemble themselves by parishes, called *Curiæ*; or by hundreds, called *Centuriæ*; or by vvards called *Tribus*. The first sort of assemblies they called *comitia Curiata*, the second *comitia Centuriata*, the last *comitia Tributa*. *b* Where by the vvay vve must note, that that thing vvhich vvas determined by the *major* part in any parish, hundred, or vvard, vvas said to be determined by that vvhole parish, hundred, or vvard: and that vvhich vvas determined by the *major* part of parishes, hundreds, or vvards, vvas said to be approved *comitiis Curiatis, Centuriatis, vel Tributis*. Secondly vve must note, that neither children untill they vvere seventeene years old, nor old men after the sixtieth year of their age vvere allovved to suffrage in these assemblies, vvhence rose that adage, *Sexagenarii de ponte dejiciendi*, *c* & old men vvere hence called *Deponani*, for the explication of vvhich see before. Here before vve speak of those three severall kindes of assemblies, we vvill consider the manner of their proceedings in propounding cases unto the assemblies. *d* The custome vvas at first that the *Romans* should bestovv their suffrages *Viva voce*, but aftervvard that every one might vvith freer libberty give his voice, they commanded certain vvooden tables, vvherein the names of those that stood for offices vvere vvritten, to be carried about, every suffrager receiving so many tables as there vvere suitors, then did the people give back that table vvith whom they would suffrage. But if a lavv vvere to be enacted, then every suffrager received tvvo tables, in the one of vvhich vvere vvritten these tvvo great letters V.R. in the other vvas vvritten a great *Roman* A. those vvho delivered these tables unto the

a Joan. Tristinus in orat. pro Cœlio.

b Sigon. de jure Rom lib. 1. cap. 17.

c Pars putat ut ferrent juvenes suffragia soli: Pontibus infirmos præcipitasse senes. Ov. Fast.

d Philip. Beroaldus in orat. Phil. 11.

the people did ſtand at the lower end of thoſe bridges (which were erected up for the ſuffragers to aſcend unto the *ovilia*) whence they were called *à diribendo, id eſt*, from diſtributing *Diribitores*. At the other end of the bridges were placed certain cheſts or little coffers, into which the ſuffragers which did approve the law did caſt in the firſt table thoſe that diſliked it, did caſt in the ſecond; for by thoſe tow letters V. R. which were written in the firſt, is meant *Uti rogas*. i. Be it as thou haſt asked, this word *fiat* being underſtood; By A. in the ſecond table was meant *Antiquo, id eſt*, I forbid it, the word ſignifying as much as *antiquam volo*, I like the old law, I love no innovations, The tables being thus caſt into the cheſts, certain men appointed for that purpoſe in manner of Scrutators (they called them *Cuſtodes*, and ſometimes *c Nongenti*) did take the tables out of the cheſts, & ſo number the voyces by making ſo many points or pricks in a void table, as they found tables alike: which kind of accounting occaſioned theſe and the like phraſes; *Suffragiorum puncta non tulit ſeptem*, and *Omne tulit punctum*; where *punctum* is uſed for *ſuffragium*; the voices being thus numbred, is was pronounced by the common cryer what was decreed. Becauſe the uſe of thoſe tables is now growne quite out of uſe, I ſhall make bold to inſert that, which with much labour I have collected out of ſeverall authors touching theſe tables. It is certaine that a long time the uſe of paper was not known, whence men were wont to write ſometimes upon the inward rindes of trees, called in Latine *Libri* (ſo that to this day we call our books *Libri*, becauſe in old time they were made of thoſe rindes of trees,) ſometimes they did write in great leaves made of that ruſh *Papirus*, growing in Ægypt, from which we have derived our Engliſh word Paper and the Latin word *Papirus*, now ſignifying our writing paper. Shortly after the invention of this Ægyptian paper, *Ptolomy* the King of Ægypt reſtrained the common making thereof, becauſe of the great *a* emulation between him and *Eumenes* King of *Pergamus* concer-

c Plin. lib. 33. cap. 2.

a Plin. lib. 13 cap. 11.

concerning their libraries: not long after therfore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamenta*. At this time did the *Romans* use to write in tables of wood, covered with wax, called in Latin *cerate tabulæ*. They wrote their wils and testaments in tables, *b Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according or against the testator his will. Becaus of the wax wherewith these tables were covered, *cera* is often used in the same sense, as *Hæredes primæ ceræ, id est, primæ tabulæ, & in primo gradu instituti*, by which words I think are understood such heires as *Alexander* calleth *Hæredes ex toto asse*, that is, heires to the main inheritance, opposing them to those which did receive only legacies, whom he calleth there *Hæredes in ima cera, secundos hæredes, & legatarios*. *d Sylvius* not upon improbable grounds doth think; that *Tully* doth understand by *Hæredes secundi*, such heires as were nominated to succeed the chief heire or heirs if they died. They wrote their accounts in tables, hence *tabulæ accepti & expensi*, signifying reckning-books. These count-books were of *e* two sorts, some monthly without order or method called *Adversaria*: *Quòd adversâ parte etiam scriptis implerentur*. Others perpetuall, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their statutes also in Tables, whence *Tabulæ publicæ*, are englished statute books, or other books of record. Those vvritings or instruments vvhich the Senate or Emperour caused to be hanged up in the market place, to release and discharge any banckrupt from paying his debts, they termed *tabulas novas*, vve may english them letters of protection. They vvrote their inventories of goods set at sale in tables, calling them *tabulas auctionarias*: yea they indited their epistles & common letters in tables: insomuch that *tabellæ* are expounded missive letters, and *tabellarias*, vvhich properly signifieth a carrier of tables, is novv used to signifie a letter carrier: yet they

b P. Pellitar. in orat. pro A. Cœcinna.

c Alex. Gen. dier. l. 1. c. 1.

d Fr. Sylvius pro Cluentio.

e Cœl. Rhod. lib. 21. c. 21.

Fr. Sylv. in orat. Catilin.

they sometimes wrought also in plates of lead, εἰ ἐλαμὰς μολύβδων γράφοντες. And thus we may understand what *Suetonius* meaneth by *charta plumbea*. Concerning all these *Pliny* writeth excellently. Before the use and making of paper was invented, men wrote at first in palm tree leaves, afterwards in the rindes of certaine trees, afterward publike monuments were recorded in volumes or roles of lead, at last private matters on fine linnen or wax. *k* The manner how they sealed their letters was thus: they did binde another table unto that wherein the inditement was, with some strong thread; sealing the knot of that thread with wax, whence *Cicero* saith, *Linum inscidimus*, that is we opened the letters, hence also is that of *Plautus*, *Cedo tu ceram ac linum: age, obliga, obsigna cito.* *l* The impression was commonly their owne image or the image of some of their ancestors. The matter on which the impression was made was not alwaies wax but sometimes a kinde of tempred chaulke, which occasioned that phrase of *Tullies*, *Signum ille animadvertit in cretula.* *n* Lastly, they wrote their books in tables, whence from them we doe at this day call our books *codices à caudicibus, caudex* signifying properly the trunck or stock of a tree, whereof these tables or books were made. We must note withal that they wrote not with ink or quil, but with an instrument of steele, or yron, having *o* a sharp point at the one end, and being broad, yet keen & well edged at the other, with the sharp point, they did write what they pleased, with the broad end they did scrape out what they had written: Whence *Stylum invertere* is to say & unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of yron ones, as *p Isidor* noteth by that law, *Ceram ferro ne cædito.* And as we use this word *Manus* to signify the writing it self, according to that of *q Tully, cognovit manum, & signum suum:*

so

g Suidas in voce μολύβδος.
h Suet. Nero.
i Plin. l. 13. cap. 11.
k Fr. Sylv. in orat. Catil. 3.
l Just. Lips. ep. inst. c 4
m Cic. 4. in Verrem.
n P. Pellitar. in orat. pro A. Cœcinna.
o Vid. Erasm. Adag.
p Herman. Hugo de prima scrib. orig. cap. 9.
q Cic orat. cont. Catil.

o in the like ſenſe we uſe this word *Stylus*, to ſignify the peculiar tenure or ſtrain of phraſe, which any man obſerveth in the compoſing of an oration, epiſtle, or ſuch like; in which ſence *Tully* uſeth it, as the antitheton to *gladius*, in that ſpeech of his, *Cedat forum caſtris, otium militiæ, ſtylus gladio*, though in another place he uſeth it to ſignify, if not a ſword, yet a pocket dagger, as *Etſi meus ille ſtylus fuiſſt*; ſ in which place *Stylus* doth ſignify as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of ancient writing, it will not be amiſs to note that uſually at the end of their books they printed a little mark, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that mark thus, ſaying that it is t *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh, uſually ſubjoyned to the end of books u Others are of opinion that the antient *Romans* did in like manner adorne the frontiſpice, or beginning of their books, with the picture of an half Moon; which obſervation giveth light not only to that adage, ἀπὸ τῆς ἀρχῆς μεχρὶ τῆς κορωνίδος, from the beginning to the ending, but alſo that of *Martial. lib.* 10.

ſ Cic. orat. pro Murena. Mic. Toxita in orat. Phil. 2.

t Cœl. Rhod. l. 15. cap. 20.

u Turn. adv. l. 22. cap. 10.

Si nimius videor, ſeraq; coronide longus
Eſſe liber, legito pauca, libellus ero.

And that of *Ovid*,

Candida nec nigrâ cornua fronte gero.

For in *Turnebus* his judgement thoſe half Moones prefixed were called *Cornua*. Howſoever this may be true touching the daſh, or character at the end of a book, and that it was termed *Coronis*: yet I doubt whether any ſuch half Moone was uſually prefixed in the beginning of books, or whether ſuch an half Moon were denoted by the Latin word *Cornu*. More probable is his opinion, * who treating of this very matter, ſaith, that in old time a whole book was written in one continued page, neither did they then cut their books into many leaves, and binde them up in that manner as we do; but that one entire page in which alone the whole book was

* Pyr. hierog. lib. 34.

written, was wont to be rolled up upon a ſtaffe, faſtned at the end thereof, in manner as many large maps are now adayes with us; Hence it is *à volvendo*, that we call our books *volumina*, Volumes. This ſtaffe on which the book is rolled was called *Umbilicus*; the ſame word ſignifieth a navill, which becauſe it is the middle part, & as it were the centre of a mans body, hence approved Authors uſe the word to ſignfie the middle of any thing; and happily that name was firſt given this ſtaffe, becauſe when the book was rolled up, the ſtaffe was the middle thereof: howſoever becauſe it was faſtned alwayes at the end of the page, hence *Umbilicus*, eſpecially when it is applied to a book, ſignifieth the end thereof, as *Horace*, *Ad umbilcum ducere*, to bring to an end. The two pummels, or ends of this ſtaffe, which did jut out & appeare on each ſide of the volume, they called *Cornua*; & they were wont to be tipt with ſilver, or gold, or otherwiſe adorned. The title which was the beginning of every book, was termed *frons*. This ſeemeth more probabable then that of *Turnebus*, and giveth greater light to that of *Ovid*,

Candida nec nigrâ cornua fronte geras.

Now that we may proceed to the matter whence we have digreſſed, it remaineth that we ſhould declare the manner how they enacted their lawes. All the *Romans*, though free Citizens, had not power & authority of preferring the law, but only eight of their Magiſtrates, which they called *Magiſtratus Majores*, namely the *Prætor*, the *Conſuls*, the *Dictator*, the *Interrex*, the *Decemviri*, the *military Tribunes*, the *Kings*, and thoſe *Triumviri*, unto theſe eight was added one of thoſe whom they entitled *Magiſtratus Minores*, namely the *Tribunus plebis*. If any of theſe Magiſtrates thought it fit to prefer a law, then did he firſt write it down at home, and conſult with ſome lawyer, whether or no it might be for the good of the Common-wealth, whether it ſhould not weaken any former law, or whether it was not formerly included in ſome other law, &c. Theſe and many other

other cautions were to be conſidered before it was preferred, yea ſome would have the approbation of the whole Senate after the advice of their lawyer, though divers times that hath been omitted, and the lawyer alone allowing it the law was hanged out publikely in the market place for the ſpace of three market dayes, vvhich kind of publiſhing the lavv vvas termed, *Legis promulgatio, quaſi provulgatio*, during vvhich time of promulgation reaſons vvere alleged *pro* and *con* by the ſpectators, & all the people had ſo much time to conſult of the conveniency thereof, and every one upon juſt reaſon had free liberty to admoniſh him that preferred the law, either to amend it, or to ſurceaſe the propoſall. After the third market day (for unleſs it vvere upon an extraordinary occaſion, no aſſembly might be called upon a market day, becauſe of the country folkes buſineſſes, they alſo having freedome of ſuffraging) the Magiſtrate did convocate the people to that place vvhere the lavv vvas to be propoſed: there the Tovvne Clark, or Notary, reading the lavv, the common crier proclamed it; then did he vvhich promulged it, make an Oration unto the people, perſvvading them that it might paſſe. Sometimes others of his friends vvould ſecond him vvith Orations in his behalfe, as likevviſe others that diſliked it, vvould by Orations diſſvvade the people, ſhevving the inconveniency thereof. After the Orations had been ended, an urne or pitcher was brought unto certain Prieſts there preſent, into vvhich vvere caſt the names of the Tribes, if the *Comitia* vvere *Tributa*; or of the Centuries, if they vvere *Centuriata*; of the Pariſhes, if *Curiata*: then *ſortibus aquatis*, that is, the lots being ſhaken together, they drew their lots; & that Tribe or Century whoſe name was firſt drawn, vvas called *Tribus vel Centuria prærogativa, à prærogando*, becauſe they vvere firſt asked their voices. *Turnebus*, interpreting that of *Tully*, *Majores voluerunt prærogativam omen eſſe juſtorum comitiorum*, interprets it, That the *Romans* did ſo depend upon the prerogative Century,

that they would alwaies declare him Conſul that was choſen by them. *Turneb. adv. l. 5. c. 23.* That *Curia* upon which the firſt lot fell, was called *q Principium*, becauſe that *Curia* did firſt ſuffrage: thoſe Tribes upon whom the other lots fel, namely the ſecond, third, fourth, &c. were termed *Tribus Iure vocata*. From this diſtinction it is, that ſuch a man as hath the voices of the prerogative Tribe, or Century, is ſaid to have *r Omen prærogativum*: which good fortune whoſoever could attain unto, was in great hope of obtaining the other voices of the *Iure vocata*; for they never, or very ſeldome would ſwerve from the determination of the prerogative Tribe, or Century. Whiles the people were buſie in their lottery, in the mean time if any *ſ* Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole aſſembly thereupon ſhould be diſmiſſed; likewiſe they were diſmiſſed if either he which firſt promulged the law did alter his opinion, or if the *Conſul* commanded ſupplications to be offered up in the behalf of their Emperor, or any of thoſe holy-days called *Feriæ Latinæ, vel Imperatoriæ* to be obſerved upon that day, or if any of the people aſſembled were taken with the falling ſickneſs (by reaſon whereof that diſeaſe is called by the *t* Phyſicians at this day *Morbus comitialis.*) Laſtly, the aſſemblies were diſſolved by reaſon of the ſoothſayings, which kind of diſſolution was cauſed either by the civil Magiſtrate his obſerving of ſignes and tokens in the heavens, and that was called *Spectio*, and ſometimes *de Cœlo obſervatio*; the very act of this obſervation, though no unlucky token did appear, diſſolved the aſſembly: or elſe it was cauſed by the *Augures* and civil Magiſtrate promiſcuouſly, whenſoever any civil token was ſeen or heard, either by the Magiſtrate, or Augure, (amongſt which thunder was alwaies counted the unluckieſt;) at which time the aſſemblies were in like manner to be diſſolved. This manner of diſſolution was termed *Obnunciatio*, or *Nunciatio*, u *Obnunciabat, qui contra auſpicia aliqua fieri*

q R. Fin. ant. l. 6. cap. 7.

r Cic pro Muræn.

ſ Huber. in lib. 1. Cic. ep. fam. 2.

t Fuchſii inſt. medicin. l. 3. ſect. 1.

u Stadius in Flor. l. 3. c. 7.

fieri nunciabat. Both theſe kindes are eaſie to be collected out of that ſpeech in *Tully* x *Nos Augures nunciationem ſolam habemus, Conſules & reliqui magiſtratus etiam ſpectionem.* Here we may fitly in way of concluſion unto this tract adde a juſt difference to be obſerved between theſe phraſes, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem,* was to hang up a law not yet asked, to the publike view of the pepole, to be examined by them touching the conveniency thereof. *Rogare legem,* was to uſe a certain oration unto the people, to perſwade the conveniency of the law; which Oration becauſe it began with this forme of words, *Velitis jubeatiſve Quirites?* that is, O ye Romans, is it your will & pleaſure that this law ſhall paſſe or no? Hence was it termed *Legis rogatio. Ferre legem* was when the law had been approved of by the people, then, to write it down upon record, and ſo to lay it up in the treaſure-houſe; y *Cùm approbata fuiſſet lex, in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Laſtly, *Figere legem,* was to publiſh the law after it had been approved and recorded by hanging it up in tables of braſſe in their market places, or at their Church-doors. Hence it is that we uſe *a Tabulam figere* in the ſame ſenſe, namely to enact or eſtabliſh a law, & *refigere legem,* to diſprove or cancell a law. b And that which was determined *Comitiis curiatis,* was termed *Lex curiata;* that which was *Comitiis centuriatis, lex centuriata,* that which was *Comitiis tributis,* was not called a law, but *Plebiſcitum.*

x Cic. 1. at. Philip. 2.

y F. Maturantius in Phil. 1.

z Corn. Tac. annal. lib. 11.

a F. Matur. in Philip. 12.

b Sig. de Jure pro. lib. 3. c. 1.

CAP. 3.

De Comitiis curiatis.

COmitia Curiata were thoſe, wherein the *Roman* people being divided into thirty Pariſhes did give their ſuffrages: They were ſo called from *Curia,* ſignifying a pariſh,

Pariſh. And untill *Servius Hoſtilius* his time, who did firſt inſtitute the *Comitia centuriata*, all things which were determined by the ſuffrages of the people, were determined by theſe *Curiata comitia*: But after the other two ſorts of aſſemblies had been eſtabliſhed, theſe *Curiata* were uſed only either for the enacting of ſome particular laws, or for the creating of ſome certain Prieſts called *Flamines*. For the better underſtanding hereof we muſt remember that though at firſt theſe thirty Pariſhes were parts of the three Tribes (each Tribe being divided into ten Pariſhes,) yet in proceſſe of time the increaſe of the *Roman* people was ſuch, that a great part of the *Roman* fields were filled with buildings and places of habitation, inſomuch that the Tribes of the *Romans* were increaſed to thirty five: but the Pariſhes (becauſe none that dwelt out of the city were tied to the rites and ceremonies of the *Roman* religion) did not increaſe, ſo that the Pariſhes did not alwaies remain parts of the Tribes. Hence it followeth that all the *Romans* had not power to ſuffrage in theſe aſſemblies, but thoſe alone who dwelt within the city; for no other could be of any Pariſh. The place where theſe aſſemblies were held was the great hall of Juſtice, called from theſe aſſemblies *Comitium*. Before theſe aſſemblies were held it was required that ſome lawfull Magiſtrate for ſome competent time before-hand ſhould ſolemnly proclame them, and the thirty Serjeants (each Pariſh having for that purpoſe his Serjeant) ſhould cal the people together: as likewiſe three *Augures*, or at leaſt one ſhould be preſent to aſſure them by their obſervations, either of the favor, or diſpleaſure of the Gods. Upon theſe premiſes the matter was propoſed unto the people, who if they liked it, then they proceeded unto their election: if otherwiſe they diſliked it, then did the *Tribunus plebis intercedere*, that is forbid their proceedings: whereupon their aſſemblies were preſently diſſolved.

Cap. 4.

De Comitiis Centuriatis.

AS thoſe former Aſſemblies were called *Curiata à curiis*, ſo were theſe called *Centuriata à Centuriis*. *Servius Tullius* cauſed a generall valuation of every Citizens eſtate throughout *Rome*, to be taken upon record, together with their age, and according to their eſtates and age, he divided the *Romans* into ſix great Armies or Bands, which he called *Claſſes*; though in truth there were but five of ſpeciall note: the ſixth contained none but the poorer ſort, and thoſe of no worth or eſteem. The valuation of thoſe in the firſt *Claſſis*, was not under two hundred pounds, and they alone by way of Excellency were termed *Claſſici*: and hence figuratively are our beſt and worthieſt Authors, called *Claſſici ſcriptores*, Claſſicall Authors. *d* All the others, though they were inrolled in the ſecond, third, or any other *Claſſis*, yet were they ſaid to be *Infra claſſem*. The valuation of the ſecond Band was not under ſeven ſcore pounds. The valuation of the third was not ſo little as an hundred pounds. Of the fourth not leſſe then forty pounds. Of the fifth not leſſe then twenty-five pounds. The ſixth contained the poorer ſort, whom *Horace* calleth, *Tenuis cenſûs homines*, men of ſmall ſubſtance; and alſo they were called *Proletarii*, *à munere officioq; prolis edendæ*, as if the only good that they did to the common-weale, were in begetting of children, and ſometimes they were called *Capite-cenſi*, that is, ſuch as paid very little or nothing at all towards ſubſidies, but only they were regiſtred among the Citizens, as it appeareth by *e Sigonius*. Theſe ſix great Bands or Armies were ſubdivided into hundreds, called in Latine *Centuriæ*. The firſt *Claſſis* contained foure ſcore centuries of footmen, and eighteen of horſemen; The ſecond contained twenty

d A. Gel. l. 7. cap. 13.

e Sig. de jure Rom. l. 1. c. 4

centuries of foot-men, and two of workmen, which followed after to make military engines and weapons: the third alſo, as likewiſe the fourth contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, and ſuch like, who upon juſt occaſion did *Claſſicum canere*, ſound the Alarum, and upon juſt occaſion did again *receptui canere*, ſound the retreat: The fift *Claſſis* contained thirty centuries of footmen: the ſixth, or laſt *Claſſis* contained one century: ſo that in all the ſix *Claſſes* were contained 193 centuries. Where we muſt note, that all the centuries of footmen did conſiſt, the one halfe in every *Calſſis* of the younger ſort, who were to make war abroad upon the enemies; the other halfe of old men, who remained at home for the ſafety of the City. All that hath been hitherto ſpoken of theſe *Centuriata comitia*, may be collected out of *Sigonius* in the place above quoted. The chief Commander of every century was called *Centurio*; the rod, or tip-ſtaffe wherewith he did ſtrike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*: So then we may perceive, that thoſe *Centuriata comitia* were thoſe, wherein the people did give their voyces by centuries, or hundreds. Now the centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certain *Municipall* ſtates alſo, and ſuch Colonies, or other ſtates, that could *d Plenum civitatis jus cum jure ſuffragii adipiſci*. *e* Now the cuſtome in old time was, that all theſe centuries ſhould march in their armour after the Magiſtrate which aſſembled them into the *Campus Martius*, there to give their voyces. But this cuſtome continued not long: for thereby they did diſarm the City, and give their enemies (if any ſhould aſſaile them in time of their aſſemblies) the greater advantage: for their greater ſecurity thereof, they appointed a flag to be hanged out upon the Mount *Janiculus*, ſome few armed men ſtanding there in watch and ward for the ſafe-guard of the City; and when the aſſembled

d Roſin. ant. l. 6. cap. 10.
e Roſin. ant. Rom. l. 6. c. 15

bled was to be diſſolved, then did the watch depart, and the flag was taken downe: neither could any thing after that be determined, but if they continued their Aſſemblies, then did they proceed to the giving of their voyces, in old time thus; Thoſe centuries of the firſt *Claſſis* being the wealthier, had the prerogative of ſuffraging firſt, and becauſe this firſt *Claſſis* contained more centuries then all the reſt, therefore if they could agree among themſelves, the other centuries were never asked their voyces. This kind of ſuffraging being ſomewhat partiall, in as much as the richer and wealthier being placed in the firſt *Claſſis*, did overſway the elections againſt the poorer ſort of people, thence did the after ages appoint that that century ſhould have the prerogative of ſuffraging firſt, upon whom the lot fell. The other centuries were all called *f Centuriæ Jure-vocatæ*, and did give their voyces not by lots (as the *Tribus Jure-vocatæ* did) but the elder and wealthier centuries did ſuffrage next after the prerogative century, accordingly as their place required.

f Roſin. ant. Rom. l. 6. c. 20

Cap. 5.
De comitiis Tributis.

FOR the better underſtanding of theſe Aſſemblies by Tribes, or Wards, it will be needfull firſt to learne, that this word *Tribus* in this place doth ſignifie a certaine region, ward, or locall place of the City, or the fields belonging thereunto, according to that, *g Tributi comitia erant cùm ex regionibus & locis ſuffragabanter* It was ſo called either *à tributo dando*, every ſeverall region or quarter paying ſuch a Tribute: or *quia primò tres tantum fuerunt*, the whole City being at firſt divided only into three regions, or wards, each nationall Tribe having his ſeverall region, or locall tribe to dwell in. The firſt nationall Tribe called *Ramnenſes*, did inhabit the Mount *Palatine*, and the Mount *Cœlius*, and thoſe two hills made the firſt locall Tribe. The ſecond nationall

g A. Gel. l. 15. cap. 27.

Tribe called *Tatienſes*, did inhabit the *Capitoll*, and the *Quirinall* mountain, which two Mountaines made the ſecond locall Tribe. The third nationall Tribe did inhabit the plain between the *Capitoll* and the *Palatine* hill, and that plaine was called the third locall Tribe. Of theſe Tribes more is ſpoken in the firſt diviſion of the *Roman* people. Only here we muſt note thus much, that in proceſſe of time, after the City was enlarged, and the number of the *Roman* Citizens increaſed, theſe locall Tribes were alſo augmented, ſo that they amounted at the laſt to the number of 35. ſome of them being called *Urbanæ*, others *Ruſticæ*; *h Urbanæ ab. urbis regionibus, Ruſticæ ab agri partibus erant nuncupatæ.* And of thoſe two ſorts, the *Tribus ruſticæ* were accounted the more honourable. Moreover we muſt remember that a man might be reputed of this or that Tribe, although he had no place or habitation therein. Concerning the place where theſe *Tributa comitia* were had, ſometimes they fell out to be in the *Campus Martius*, ſometimes in their great Hall of Juſtice called *Comitium*, ſometimes in the *Capitoll*; many times in other places, according to the diſcretion of the Magiſtrate which cauſed theſe Aſſemblies.

h Sigon. de jure Rom. l. 1 c. 3.

Cap. 6.

De Candidatis.

IT ſhall not be impertinent to annex ſome neceſſary obſervations touching the *Roman* Petitors or Suitors for bearing office: where we will obſerve theſe three phraſes, *ambire magiſtratum, inire magiſtratum*, and *abire magiſtratu*. The firſt ſignifieth, to ſue for an office; the ſecond, to enter into the office; the third, to depart out of the office. Again the difference of theſe phraſes, *Conficere legitima ſuffragi, & Explere ſuffragia*. *i* The firſt ſignifieth, to have ſo many voyces as the Law doth require. The ſecond ſignifieth,

i Rofin antiq Rom. l. 20. c. 6.

to

to have more voyces then any other Competitor, but not so many as the Law requireth.

These persons were termed *Candidati, à togà candidâ*, from the white Gowne which they did weare, as it appeareth more at large, where we have spoken *De Romanâ togâ*. That they might the easier procure the good will of the people, these foure things were expected from them. First, *Nomenclatio*, the saluting of every Citizen by his name; for the better discharge of which, they had a certaine follower, which should by way of prompting tell every Citizen his name as he passed by, and hence this prompter was sometime called *a Nomenclator*, which word doth properly signifie a common Cryer in a Court of Justice, such as call men to their appearance, whence they had their name from *Nomen & calo*, an old Latine word to call; sometimes *b Monitor*, sometimes *Fartor ab infarciendo in aures*. 2ly, *Blanditia*, that is, a friendly compellation by the addition of some complementall name, as well-met friend, brother, father, *&c.* Thirdly, *Assiduitas*, that is, an hot canvasing, or soliciting men without intermission. Lastly, *Benignitas*, a bountifull, or liberall largesse, or dole of money called *congiarium*, from the measure *Congus* containing a Gallon; because their *l* dole was at the first made of Oyle or wine distributed in those measures. Howbeit κα τοχε εικῶν any dole, gift, or largesse in money, or otherwise, is called *Congiarium*. The distributers of this dole were called *m divisores & n sequestres*, although sometimes *sequester* signified a briber or corrupter of a Judge. Likewise their bounty or liberality consisted in providing great dinners, and exhibiting magnificent shewes unto the people, *&c* Where we must observe, that as often as this largesse is called *Largitio*, it is taken in the worst sense, namely for an unlawfull bribing of the suffragers under a pretended largesse, *o Benignitas liberalitatem magis significat quam largitionem.*

Rosin. antiq. Rom. l.7.c.8.

a Cic. orat. pro L. Mur. Mercemur servum qui dictet nomina, *&c.* Hor. l. 1 ep. 6.

b Cic. loco supra citato.

l G. Trapez. in Philip. 2.

m Sig. de jur. lib. 2 cap. 29.

n Barth. Latomus in orat. pro M. Cœl.

o Cic. orat. L. Muræn.

Cap. 7.

De Romanis veſtibus

WEE may obſerve in reading old Authors, that as well the *Romans* as the *Grecians*, had divers diſtinct habits, or outward veſtiments. The *Grecians* had their Mantle, called *Pallium*; the *Romans* their gowne called *Toga*: and by this different kinde of Garment the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, and *Palliatus* a *Greeian*. *f* *Togati pro Romanis dicti, ut Palliati pro Græcis.* Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were. *g* *Toga, à tegendo dicta eſt* It was made commonly of wooll, but according to the worth and dignity of the perſon, ſometimes of a courſer, ſometimes of a finer wooll; as we may collect by that of *Horace*.

f Sigon. de judic l. 3. c. 19.
g Mic. Toxita in orat. Philippic. 2.

——— *Mihi ſit toga, quæ defendere frigus*
Quamvis craſſa queat ———

We muſt note with *Toxita*, that no women of any credit did wear the *Roman* Gowne, but inſtead thereof did uſe a Garment called *ſtola* from στέλλω, ſignifying *demitto, quòd uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd ſtrumpet, they would term her *i* *mulierem togatam.* *k* This *Toga* ſometimes was worn open and untuckt; then was it called *toga aperta*: other times it was tuckt up, and then it was called *toga præcincta*. This cincture or girding up of the gown was, according to *l* *Sigonius* three-fold; *Cinctura laxior*, *Aſtrictior*, and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kinde of girding was ſuch, that notwithſtanding the tuck, yet the tayle trailed on the ground; *Cinctura aſtrictior*, the cloſe kinde of girding was ſuch, that after the gowne had been lapped,

Mic. Tox. ib.

i Roſin. ant. Rom.
k Sig. de jud. l. 3. c. 19.

l Sig. ib.

or

or tucked up, it ſhould not reach ſo far as the feet. The firſt kinde of theſe cinctures did argue a remiſſe, ſoft, and effeminate mind; the latter did ſignifie the promptneſſe or readineſſe of the perſon, *m Vnde, Altè præcincti, pro expeditis dicti ſunt.* Thirdly, *Cinctus Gabinus* was a warlike kind of girding, not ſo that the whole gowne ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelfe with one skirt thereof. *n* This kinde of girding was ſo called from a certain City of *Campania*, called *Gabii*, becauſe upon a time the inhabitants of this City being at ſacrifice, wete ſet upon by their enemies; at which time they caſting their gownes behind them, and girding one lappet, or skirt about them, went immediatly to war, even from the altars, and got the conqueſt. *o* In memory of which ever after, the *Conſul* when he ſhould proclaim war, girded himſelfe in like manner. Neither had the *Conſul* alone a peculiar garment when he proclaimed war, but every ſouldier in time of war did wear a different kind of garment from the gown, which they called *Sagum:* we may engliſh it a ſouldiers coat. Whence *Tully* uſeth this phraſe, *ad ſaga ire*, which *Eraſmus* hath paralleld with this, *Ad certamen ſe accingere*, to buckle for war. Inſomuch that *Cedant ſaga togæ*, is *equivalent* to that of the Oratours *Cedant arma togæ.* Touching the difference of the *Roman* Gownes, I finde them diſtinguiſhed by *p Sigonius* according as followeth; in *Togam, Puram, Candidam, Pullam, Prætextam, Palludamentum, Pictam, Trabeam Toga pura* was the common ordinary gown worn by new married women, and *Tanaquill prima texuit rectam tunicam, quâ ſimul cum toga pura tyrones induunur, novæq; nuptæ. Plin. l.* 8. *c.* 48. and by private men at mans eſtate, about the ſixteenth year of their age, at which time they were ſaid *Excedere ex ephebis*, that is, to be paſt ſtriplings. Notwithſtanding the ſixteenth year was not alwayes ſtrictly without exception obſerted; *q* for *M Aurelius* was permitted to wear this gowne being but fifteen yeares old;

m Sig. ibid.

n Serv. Æneid. lib 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de jud. lib. 3. cap. 12.

q Roſin. ant. lib. 7. cap. 30.

old; and *Caligula* did not wear it till the nineteenth year of his age. This kind of Gowne beſide that it was called *Pura*, was alſo ſometimes called *virilis*, ſometimes *libera*. It was called *Pura* in reſpect of its pure white colour, being free from all admixtures of purple, or any other colour; and therefore ſome have termed it ὁλολευκον all white, others απόρφυρον, voyd of purple. It was called *virilis*, becauſe it was given to ſtriplings, now growing to mans eſtate Whence we uſe to ſay of a ſtripling paſt ſixteen years of age, *virilem togam ſumpſit*, he is now become a man. Laſtly it was called *libera*, *r* becauſe then they did receive ſome beginning of freedome, as being about that time freed from their ſchool-maſters, and overſeers. This kinde of Gowne was not made open, but ſewed downe to the bottome, and alſo it was made without ſleeves, ſo that if at any time they had occaſion to uſe their armes, they would take up their Gowne, and caſt it quite behind them, or upon their ſhoulders. But theſe ſtriplings could not for one whole years ſpace, caſt back their gownes in that manner for their liberty of their armes without the imputation of immodeſty, as it appeareth by *t Cicero*, *Nobis annus erat unus ad cohibendum brachium togâ conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office: *u* and thence is it, that *Horace* wiſheth ſuch to hire them a ſervant,

——— *Lævum*
Qui ſodiat latus, & cogat trans pondera dextram
Porrigere ———

In which place by *Pondera* is underſtood the *Roman* gowne, as *x Sigonius* hath expounded that place Now for the underſtanding of *Toga candida*, we are to learne a difference between this *candida toga*, and the *toga pura* above ſpoken of, which is oftentimes called *toga alba*, both of which were white, but differed in the degree of whiteneſſe. The *toga alba* had only the naturall whiteneſſe of the wooll, the *toga candida* had an artificiall white dye: whereby the gloſſe of the white was made more orient and intenſive Or elſe as *y Sigonius*

Ita toga non tactas vincere iuſſa nives Mart.

r Roſin. ant. Rom. l. 5. c. 32.

Aldus manu

t Cic. in orat. pro Cœlio.

u Sig. de jud. lib. 3. c. 19.

x Sigon. ib.

y Sigon. ib.

nius hath obſerved out of *Iſidorus*, *intendendæ albedinis causâ cretam addiderant*, that is, they chalked it to increaſe the whiteneſſe hereof. And hereunto *Perſius* alludeth.

——— *Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam* λαμπρὰν, that is, ſhining or ſplendent. Moreover, whereas the *alba toga* was the ordinary *Roman* gowne which commonly the *Roman* Citizens did wear, this *Candida toga* was only worne by thoſe which did *Ambire magiſtratum*, ſue for a Magiſtracy, or place of Office, who during the time of their ſute, were called from their gowne *Candidati*: and *Quintilian* borrowing his metaphor from them, hath called a young ſtudent *eloquentiæ candidatum*. The third ſort of gowne which I termed *togam pullam*, was a black gowne, and thereof were two ſeverall kinds; the one cole-black, which was worne *luctûs causâ*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did weare this gowne, they were ſaid *Mutare veſtem*, z which phraſe in old Authors, doth ſignifie nothing elſe but to goe in mourning apparell: The other not cole-black, but only foul'd or ſtained, and that was worne *reatus causâ*, in times of arraignment, and thoſe that wore it, were called *Sordidati*, *à ſordibus in veſte*, from the ſpots or ſtaines in the gowne. Where we muſt note, that in proceſſe of time *Toga pulla* became the ordinary gowne, which the common people did wear; at which time the ordinary gowne which the Citizens of better place and eſteem did wear, was the *toga candida*; whereupon there did then grow a diſtinction of the Citizens, unknowne to the former age, ſaith *Roſinus*, namely that ſome were termed *candidati*, others *pullati*: *Candidati* were thoſe, not which became ſuters for places of office (as in old time it ſignified) but thoſe which did live in better repute then others; from whence it is, that *a* he whoſe Office was to read the Emperours Letters in the Senate, was called *Candidatus*, *principis*, or *Quæſtor candidatus*. It did ſomewhat reſemble the Office

z Sig. de jud. l. 3. c. 19. Cic. rat. pro P. Sext.

Suum dolorem veſte mutata ſignificabant Romani.

a Feneſt. de Mag. Ro. c. 3.

of the King his Majeſties chief Secretary. *Pullati* were thoſe of the commonalty or inferiour ſort. The fourth ſort of gown was the *toga prætexta*, ſo called, *quia ei purpura prætexta erat*, becauſe it was garded about with purple ſilk. This kind of gowne at the firſt, was uſed only by the *Roman* Prieſts, and chief Magiſtrates: Neither was it lawfull for ſuch as did wear that gowne to be arraigned, or ſentence to be given on them untill that gowne was put off. In continuance of time this *toga prætexta* was permitted firſt to Noble mens Children, afterward to all *Roman* Children in generall: whereupon *b Togatus a prætexto differt ut privatus à magiſtratu, & vir à puero*; and *ætas prætexta* is taken for Childhood, and *prætextati* ſometimes for Magiſtrates, but commonly for young Children. The fifth ſort of gowne was called *Paludamentum*; it was a military garment, which *c* none but the Lord Generall or the chief Captains did uſe to wear. *d Iſidorus* ſaid it was not only garded with purple, but with skarlet and gold lace: whence it was ſometimes called *e Toga purpurea*, ſometimes *coccinea*. It was much like the habit which the *Grecian* Emperor was wont to weare, called *Chlamys*; yea, now it is called *Chlamys*; we may Engliſh it an *Heralds* Coat of Arms. The ſixth ſort of gowne was *toga picta*, *g* becauſe in it were imbroidred goodly Pictures with needle-work: It was alſo called *Purpurea*, not becauſe of any purple-gard (in which reſpect the *prætexta*, and the *Paludamentum* were called *Purpurea*) but becauſe it was all over of a Purple dye: it was by ſome termed *toga palmata*, becauſe in it many Palme branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, becauſe Emperors in their triumphs did wear ſuch gowns. The laſt ſort of gown was *Trabea*, whereof there were *h* three ſeverall kindes; the one woven all of purple, which was conſecrated unto the Gods: the ſecond was purple woven upon white, and this only Kings and Conſuls might wear: the third was ſcarlet woven upon

b Pet. Pell tatius in orat. pro A. Cœcin.

c Alex. gen. dier. l. 5. c. 18.

d Sig. de Jud. lib. 3. cap. 19.

e Sigon. ib.

f Roſin. antiq. lib. 5. cap. 31.

g Sig. de Jud. lib. 3. c. 19.

h Serv. Actei lib. 7.

upon purple, and this the *Augures* only did wear. *i* This laſt ſoat was therefore called *Trabea anguralis*, the ſecond, *trabea regia*, the third *trabea conſecrata*.

i Alex. Gen. dier. l. 5. c. 18.

Cap. 8.

De Tunica.

THoſe Coats which were worne under the gowne, were called *Tunica*; and that they were worne under the gowne, it appeareth by that adage, *Tunica pallio proprior eſt*, that is, every one for himſelfe firſt; or according to our Engliſh Proverb, Cloſe ſitteth my ſhirt, but cloſer ſittech my skin. *k* This *tunica* was both narrower and ſhorter then the gowne: at firſt it was made without ſleeves, afterward with ſleeves, and by it, as well as by the gowne were Citizens diſtinguiſhed. The firſt ſort of Coats was made of white cloath commonly, *l* but purfled over and embroidred with ſtuds of purple in manner of broad naile heads; whence it was called *Laticlavia*, or *Latus clavus*; and the perſons wearing this Coat were Senators, called thence *Laticlavii* The ſecond ſort belonged unto the *Roman* Knights, and it differed in making from the firſt, onely that the purple ſtuds or embroidered workes of this, were not ſo broad as the former: whence the Coat was called *Angusticlavia*, or *Angustus clavus*, and the perſons wearing it were called *Angusticlavii*. The third ſort belonged unto the populacy and poorer ſort of *Romans*: it was made without any purfled works, being called *Tunica recta* This Coat was given together with the *virile* gowne to the ſtriplings paſt ſixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* gown; ſo was the *tunica clavata* given together with the *toga prætexta*; and the *laticlavia*, otherwiſe called *tunica palmata*, given with the *toga picta*. The fourth and laſt ſort belonged unto women, being a long coat

k Sig. de ant. jur. p. civ. 20.

l Salmuth in Pancirol. lib. rerum deperdit. c. de fibul. Vid. Turneb. adverſ. l. 1. c. 2.

reaching down unto the heeles; they called it *Stolam*. Upon it they did wear an outward Garment *m* called *pallium*, and ſometimes *palla*, *quia palàm geſtabatur*. *n* *Sigonius* ſaith that this *palla* was a certain gowne uſed by ſtage-players: howſoever certain it is, that not only women, but men alſo and children did wear this kind of garment. Beſides the *Roman* gowne and coat, their remain other parts of their apparell to be ſpoken of; ſuch are theſe which follow: *Lacerna*, which ſome doe engliſh a cloak, but *o* *Feſtus* would have it to be a little kind of hood, which men ſhould wear to defend themſelves from the rain and weather; It was made that either ſide might be worn outward; and at firſt it was worn only in war, ſo that *lacernati* ſtood in oppoſition with *togati*. *p* *Iſodorus togatos pro urbanis, lacernatos pro militibus uſurpatos ſcribit.* Afterward, as we may conjecture it was made longer in manner of a cloak, for it was divers times worne upon their coats inſteed of gownes. Another kinde of garment was the *Penula*, ſo called *quaſi pendula*, we may tranſlate it a long hanging cloak. A third was called *Mitra*, which ſometimes did ſignifie a certain attire for womens heads, as a coif or ſuch like; though this kinde of attire was more properly called *Calantica*: other times it ſignified a girdle, which more properly was called *Zona*; This *Zona* chiefly ſignified a ſouldiers belt, or a marriage girdle. The ſouldiers belt was lined within in the inſide, where when they went to war they did put their money: whence *Horace* ſaith of a man that hath loſt his money, *Zonam perdidit*; and ζώννυσθαι, to be girt, ſignifieth Ἐνδύνειν τὰ ὅπλα, *Arma induere*, *Cœl. Rhod l.* 22. 19. happily becauſe that part of the body which was girt, was conſecrated to *Mars*, as the forehead was to every mans particular *Genius*, the arms to *Juno*, the breſt to *Neptune*, the reins to *Venus*, the feet to *Mercury*, and the fingers to *Minerva*. *Alex. ab Alex. l.* 2. *c.* 19. Young maids when they were married were wont to have a marriage-girdle tyed about their middle, which their husband at the

m Roſin. ant. lib. 5. cap. 25.
n Sig. de jud. lib. 3. c. 19
o Sigon. ibid.
p Sigon. ibid.

the firſt night of their marriage ſhould untie: whence *zonam ſolvere*, hath been tranſlated to deſloure a Virgin. This marriage-girdle in former times was called *Ceſtus*, from whence cometh the Latine word *Inceſtus*, and the Engliſh word Inceſt: which in truth ſignifieth all kinde of pollution committed by undoing, or untying this girdle called *ceſtus*: But now in a more ſtrict acception it ſignifieth onely that kind of naughtineſſe which is committed between two neer kin: *q* and that other folly which is committed with a ſtrangers wife, is now properly called *adulterium*; and that which is committed with a maid or widow, *ſtuprum*. The laſt thing touching their apparell is their ſhoes. *r Calceamentorum genera duo fuerunt, calceus, & ſolea.* For the ſoale of the ſhoe called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tyed on to the bottome of the foot with leathern ſtraps or buckles, and ſo worn inſteed of ſhoes. The divers kindes of theſe ſhoes did diſtinguiſh the Roman people alſo To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncenati*, *Perones*, *Gothurni*, *Socci*, all theſe ſorts of ſhoes were made halfe way up the leg, as the Turkiſh ſhoes are, according to *Joſephus Scaliger*: and they were either laced cloſe to the legge, as many of our boots are now adayes; or claſped with taches or haſps. The firſt ſort called *Mullei* *s* from the fiſh *Mullus*, being like unto it in colour, were alſo called from their claſp, *calcei lunati*, becauſe the claſps were made in form of an halfe moon, which half-mooned claſp reſembling a Roman C, ſignified an hundred, *u* intimating thereby that the number of the Senators (they onely being permitted to wear this kind of ſhoe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp to put them in minde that the honour to which they had attained, was mutable and variable as the moon. For they think that theſe *Lunati calcei* were not received as a token of Nobility onely at *Rome*, but in other

q Cæl. in orat. pro Milone.

r Roſin. antiq. Rom. l. 5. c. 36.

s Salmuth. in Pancirol. lib. rerum deperdit cap de fibulra.

t Appoſitam nigræ lunam ſubtexit alutæ. Juven

u Salmuth. in Pancirol. lib. rerum deper. c. p. de fibul.

places, to which purpoſe they interpret that of the Prophet *Eſay, cap.* 3. *In die illo auferet Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. Antiq. l.*20. *c.* 28. *Uncinati calcei*, were thoſe, which the Souldiers were wont to wear, I take them to be the ſame with thoſe which they called *Caligæ*, from which kinde of ſhoes *C. Cæſar Caligula* had his name, becauſe he was born in the Army, *Quia natus in exercitu fuerat, cognomentum calceamenti militaris, id eſt, Caligulæ ſortitus eſt. Aurel. Vict. Epit. de vita imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two ſorts of ſhoes, ſaith, there were the *Mullei* called from their claſps *Lunati*, and the *Perones* made without ſuch half-mooned claſps, called alſo *Calcei puri, quoniam ex pure corio facti*; and theſe *Perones*, or *puros calceos* all the other *Romans* did wear *x* with this note of diſtinction, that the Magiſtrates ſhoes were beſet with precious ſtones, private mens were not. Thus much concerning both the kinds and faſhion of the ſhoes may be collected out of *Roſinus* in the place above quoted. The deſcription and uſe of the *Cothurnus*, and *Soccus*, may be ſeen in the Tract *De Romanis Iudis.*

x Salmuth in Pancirol. lib. rerum deper. c. de fibula.

LIB.

LIB. III.

SECT. 2.

Of the Roman *Magiſtrates.*

CAP. I.

De Magiſtratibus Romanis.

WE being to treat of the *Roman* Magiſtrates, will firſt ſee what the definition of a Magiſtrate is: A Magiſtrate is he *o* who receiveth by publike authority the charge and overſight of humane affaires belonging to the Commor-wealth. Theſe *Roman* Magiſtrates were either to be choſen only out of the better ſort of *Romans*, called the *Patricii*; or elſe only out of the Commonalty. *p* The firſt were thence called *Magiſtratus Patricii*, the ſecond *Magiſtratus Plebeii*. The *Patricii* had power to hinder the Aſſemblies of the people, namely their *Comitia*, by obſerving ſignes and tokens from the heavens: howbeit ſome of them had greater power, others leſſe; inſomuch that ſome were called *Majores Magiſtratus, quoniam habebant majora auſpicia id eſt q magis rata* Others were called *minores Magiſtratus, quoniam habebant minora auſpicia*. Of theſe in their order.

o Sig. de jure. Rom. l. 1. c. 20.

p Sig. de jure. Provinc l. 3. cap. 1.

q Feneſt. de Magiſt. Rom. cap. 1.

CAP.

Cap. 2.

De Rege & Tribuno Celerum.

IN the infamy of *Rome* it was governed by a King unto *Tarquinius ſuperbus* his time, who by maintaining that ſhamefull act of his Son towards *Lucretia*, did ſo incenſe the people, that they did not only for the preſent exile him, but decreed that their City ſhould never after that be Governed by a King. This King had abſolute rule and Government over the City. For the ſafety of his perſon he had three hundred choſen young men alwayes to be attendant about him, much like unto our Kings Majeſties Guard here in *England*, or rather his *Penſioners*. They were called *r Celeres*, *à celeritate*, from their readineſſe in aſſiſtance; ſometimes they were called *Troſſuli*, *s* becauſe they alone, without the help of any footmen did take a certain City in *Etruria*, called *Troſſulum*. Other times they have been called *flexumines*, whereof as yet there hath been no certain reaſon rendred. Each hundred of them had their ſeverall overſeer, called *Centurio*; and over them all there was one generall overſeer, and chief Commander, whom they called *Præfectum, vel Tribunum Celerum*, his place being next to the King. A ſecond ſort of attendants about the King were called *Lictores*, *à Ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a rod, and ἔχω, to have: though ſometimes ῥαβδοῦχοι do ſignifie the ſame as ῥαψῳδοὶ, the rehearſers of *Homers* verſes, or in generall of any other *Poets*, διὰ τὸ ῥάπτειν ᾠδάς from patching together other mens Poems. For the reciters of *Homers* verſes were wont to hold a rod or wand in their hand during the time of rehearſall. *Cœl. Rhod. l. c.* 29. They did ſomewhat reſemble our Serjeants, there being in number 12 of them. Their Office was to carry certain bundles of birchen

r Plutarch. in Romulo.

s Plin. lib 33. cap. 2.

birchen rods with an ax wrapped up in the midst of them; the rods in latine were called *Fasces*, the ax *Securis*. [t] The reason why they carried both axes and rods, was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whiles they were unbinding. Hence, because these *Fasces virgarum & securium*, did betoken honor and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signifie honor and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracy or dignity; And *Fasces submittere*, to give place, or yeeld unto. *Valer. Publicola* gave the occasion of the proverb. He to insinuate himself into the hearts of the people is said, *Submittere faces populo quoties prodiret in concionem.* Some interpret it, as if he were wont to command the Serjants quite to depart out of the assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth, writing thus, τύτως τε τοὺς ῥάβδους εἰς ἐκκλησίαν παριών, ὑφῆκε τοῦ δήμῳ καὶ κατέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinavitq́.* So that the phrase signifieth properly, the not-holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cœl. Rhod. l.* 12. *c.* 7.

t Ioac. Camerarius in orat. pro Flacco. *Immedicabile vulnus ense reciden lum, &c.*

CAP. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum & Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman* people; as likewise in the third division hath been shewn the habit

or gown by which the *Senators* were diſtinguiſhed from the *Roman* Gentlemen. Here therefore it ſhall be ſufficient for us to underſtand, that every ſolemn meeting, or conſiſtory of theſe *Senators* was called *Senatus*. The fore-man of them (which could be no other then ſuch as had been either *Conſul* or *Cenſor*) was called *Princeps Senatûs*, and his opinion was alwayes firſt asked. Now among thoſe that had borne thoſe foreſaid offices, it was in the *Cenſors* power to make whom he would fore-men. The decree of this conſiſtory was called *Senatus conſultum*. And many times it is written with theſe two letters onely S. C. In like manner their preface to theſe decrees was commonly theſe two capital letters B. F. That is, *Bonum factum*, *Sueton. Jul. Caſ. cap.* 80. and it had the ſame uſe as, *In nomine Dei* with us. The place where this conſiſtory was had, they called *Senaculum*. None was [u] ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age: and of thoſe that were admitted, ſome were allowed to ride unto the Senate-houſe in a Curule chair, namely when they had borne ſuch office, which gave them right unto that chair; others which had not borne ſuch office went on foot, [x] whence theſe latter were called *Senatores pedarii*. They determined their acts which they called *Senatus conſulta*, ſometimes by departing downe their benches, and dividing themſelves into ſides; thoſe which did approve that which was propoſed, ſided with the party who did *Referre ad Senatum*, that is, propoſe the matter unto the Senate; the others departed unto the contrary ſide; or if they came not down at all, but ſate ſtill on the benches, then did they ſignifie by holding up, or beckoning with their hands, what ſide they would take. Now if the major part were eaſie to be diſcerned, then they reſted there, terming that act to be decreed [y] *per diſceſſionem*: and hence theſe and the like phraſes have taken their beginning, *In illius ſententiam iturus ſum*, and *Manibus pedibuſq; diſcedere in alicujus ſententiam*, that

[u] Mart. Phileticus, in Cic. l. 1. ep. fam. 1.

[x] Mart. Phileter. ibid. It. A Gel no. Attic. l. 3 c. 18

[y] Hubert. in Cic. lib. 1. ep fam. 1.

that is, to be fully perſwaded of ones opinion. Now if both companies were almoſt equal, ſo that the major part could not eaſily be diſcerned, then did they proceed to give their voyces, and that which was thus determined was ſaid to be decreed, *per ſingulorum ſententias exquiſitas*, that is, by voices. Here we may obſerve that to thoſe who were favourably heard in *Senate*, *His ſenatus dare dicebatur:* and [z] likewiſe they were ſaid *ſtare in Senatu*; as on the contrary they were ſaid *jacere*, whom the *Senate* neglected or rather condemned. [a] *Cùm mihi ſtanti jacens minaretur*, ſaith *Tully*. [b] If any Senator were abſent without a lawful excuſe, then was he fined: and for the payment thereof, he did put in a pledge, which if he did not ranſom, then did the common Treaſurer *Cædere vel concidere pignora*, that is, ſtrain or ſeize upon the pledges, making common ſale thereof, in which ſenſe thoſe two phraſes are uſed, namely, *capere pignora, & auferre pignora*, that is, to ſtrain or ſeize upon a mans goods.

z Aſcenſius in Cic. l. 1. epiſt. fam. 4.

a Cic. orat. de a ruſp. reſpon.

b Roſin. antiq. l. 7. c. 7.

Cap. 4.

De Conſulibus.

After the expulſion of *Tarquinius Sup.* the laſt *Roman* King, all the Citizens in *Rome* aſſembled, and concluded that the government of the City, which before was in the hand of one alone Governor, called their King, ſhould now be divided between two: [c] who at firſt (before there was any ſubordinate office as a *Prætorſhip*) the *Romans* called *Prætores, quòd præirent populo*. Not long after they were called *Judices à judicando*. In proceſs of time they were known by no other name then *Conſules à conſulendo populo*. [d] No Citizen was ordinarily created *Conſul* before the forty third year of his age. Neither might any be choſen without ſpeciall diſpenſation, either in their abſence out of *Rome*, [e] or in time of their triumph; which was the reaſon that

c Roſin. antiq. Rom. l. 7. c. 9.

d Cic. orat. Phil. 5.

e Suet. Iul. Caſ. cap. 18.

that *Julius Cæsar* was glad to forego his triumph at that time when he was Consul with *Bibulus*. The signes or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes,[f] the first month before one Consul, and the second before the other, as formerly they had done before the Kings.* Now he that had the rods carried before him in the first moneth, either he had more children then the other, for the *lex Julia* gave precedency to him who had most children, or he was elder then the other, or in time of the election he was pronounced before the other, for which respect he was called *Consul major*, and *Consul prior*.[g] The reason why each *Consul* had not twelve *Lictors* alwayes, was because the tyrannie of the *Consuls* might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain chair of estate called *Sella eburnea*, that is, an Ivory chair, so called from the matter whereof it was made; and[h] because this chair was commonly carried about in a certain coach or chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella curulis*; where[i] note that the word *Curulis* is sometimes used substantively, and then it signifieth some chief magistracy or office among the *Romans*. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown which from the great embroidred works was called *Trabea*, and he that did wear it was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the *Romans* did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say *Ab urbe conditâ* the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating was by subscribing the names of their present Consuls, as to say, such a thing was determined *L. Valerio, M. Horatio Cōsulibus*, such & such being Consuls: Whence *Suetonius* speaking of *Julius Cæsar*, saith he was appointed

f Alex. Gen dier. l. 4. c. 8.
* Cæs. Bond. lib 12. c. 7.
g Fenest. de magist. Rom.
h A. Gel. l. 3. c. 18.
i Stadius in Flor. l. 1. c. 5.

appointed be *Flamen Dialis*, *sequentibus consulibus*, that is, the next year following. Yea this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withall, that they might know the goodnesse of their wine, the name of the country whence it came, according to that of *Juven. sat.* 5.

——*Cujus patriam, titulumq́, senectus*
Delevit multâ veteris fuligine testæ. Turn. adv. l. 1. c. 1.

Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares.*

[k] At the first those who were created Consuls remained in their office the space of an whole year, being *designati ad consulatum* upon the twenty fourth of Octob. [l] *Ad consulatum non inierant ante Calendas Jan.* that is, the first of January. The reason of this chasme, or *interim* between their designation unto their office, and their entry into it, was (as we may probably conject) that the competitours might have some time to enquire *de Ambitu*, that is, whether there was no indirect and unlawfull means used in their canvasing. In processe of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called [m] *Non ordinarii, & suffecti Consules.* At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, were called [n] *Consules Honorarii*, and *Consules Ordinarii.*

[k] Tristanus in orat. C. c. pro Coelio.
[l] P. Rames in orat. Cat. 1.
[m] Fr. Sylv. in Cic. orat. pro Muræn.
[n] Rosin. antiq. Rom. l. 1. c. 9.

Cap. 5.

De Censoribus.

THE Consuls finding themselves encombred with so many businesses of a different nature, did by consent of the Senate choose two peculiar Officers, called [o] *Censores*

[o] Geneal. de mag. Rom. c. 17.

a censendo, becauſe they ſeſſed and valued every mans eſtate, regiſtring their names, and placing them in a fit century. For it did concern the *Romans* to know the number, and likewiſe the wealth of the people, to the end they might be informed of their own ſtrength, and ſo ſhape their courſe accordingly, either in undertaking wars, tranſplanting Colonies, or in making proviſion of victuals in time of peace. A ſecond and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phraſe, being called *Virgula cenſoria.* If any one had plaid the ill husband, and neglected his Farm, or left his vine untrimmed, the *Cenſors* took notice thereof, They did *Senatu & Tribu movere,* .i. they did depoſe Senators and pull down men from a more honourable tribe, to a leſs honourable. *Diminutio maxima* was the loſs of ones Tribe, City and freedom. Theſe *Cenſors* were reputed of the beſt rank of Magiſtrates in *Rome:* they remained in their office an whole five years ſpace ordinarily; I ſay ordinarily, becauſe [r] through the abuſe of their place, the office had been made ſometimes annual. [s] That five years ſpace the *Romans* did call *Luſtrum,* becauſe they did once in every five years revolution *Luſtrare exercitum Romanum,* by ſacrifice purge the *Roman* army. Hence we ſay *duo luſtra,* ten years, *tria luſtra,* 15 years, &c. The performance of this *Luſtration* belonged alſo unto the *Cenſors:* for after the *Cenſors* had performed the one part of their office, in regiſtring the juſt valuation of every Citizens eſtate, [t] they did lead a Sow, a Ram and a Bull, three times about the army, and in the end ſacrificed them to *Mars:* and thus to purge an army, is, *condere Luſtrum*; though ſometimes *condere Luſtrum* doth ſignifie, to muſter an army. Theſe ſacrifices, as likewiſe all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull ſacrificed, were termed ſometimes [u] *Suo vetaurilia,* ſometimes *Scitauralia,* ſometimes [x] *Taurilia.* Moreover it

[r] Feneſt. de Rom Magiſt. cap. 7.
[s] Pomp. Læt. de Rom. mag. c. de Cenſor.
[t] Pancirol. lib. rerũ deperd. c. de cibi capiendi modo.
[u] Alex. Gen. dier. l. 5. c. 17.
[x] Pomp. Læt. de mag. Rom. c. de Cenſor.

it did belong unto these *Censors* to farm out the tributes, imposts, tollage &c. [y] At the five years end, the acts of both their *Censors* were registred upon books of record, which records were laid up in a certain religious house dedicated to the *Nymphs*. Whence [z] *Cicero* speaking of *Clodius* saith, *Qui ædem Nympharum incendit, ut memoriam publicam incensis tabulis publicis impressum aboleret.*

y Panci ol l. ter. deperd. c. de cibi cap. endi mod.
z Cic pro Milone.

Cap. 6.

De Prætoribus.

THe *Consuls* by reason of their many troubles in war, having no time to administer justice unto the Roman people, did for the better help therein, create two new Officers for the executing of justice, the one to examine and judge of matters within the City, between Citizen and Citizen: the other to decide Controversies between forreiners. The first they [a] called *Prætorem urbanum*, and *Prætorem majorem*; the other *Prætorem peregrinum*, & *Prætorem minorem*: we may english them Lord-chief-Justice. Where we must note that at the first there was only the *Præter urbanus*, untill the cases and suits in law became so many, that one was not sufficient to hear them all, [b] yea at last the number of the *Prætors* came to 16. namely, when those two were added for the providing of corn and grain; whence they were called *Prætores cereales*: [c] nay there were at last eighteen *Prætors*, there being two others added to judge of controversies touching feofments of trust, called thence *Prætores fidei commissarii*. [d] *Causarum duo genera sunt, aliæ privatæ, aliæ publicæ; has criminosas, illas civiles appellant.* In those cases wch were private, that is, [e] touching equity & uprightness of any act, or the restitution of any mony or goods unlawfully detain'd from the right owner, it belong'd princially unto the [f] two first *Prætors* to judge, [g] but under them unto the *Centũ viri*, who oftentimes are called by *Tully Recupera-*

a Pighius æquipet. comp.
b Alex. Gen. dier. l. 2. c. 15.
c Fenest. de mag. Rom. c. 19.
d Fr. Sylv in orat. pro Mur.
e I Saxonius in Cic. orat. pro S. Roscio.
f Rosin antiq. lib 7 cap. 11.
g Saxonius ibid.

cuperatores, & *Judices hastæ*; the court *Hasta centum-viralis*; because one of the marks and speciall ensigns was a spear erected up in the place the court was kept. Those cases which were publike or criminal, as Treason, Murder, Buying of voices in the canvasing of Offices, &c. were called also *causæ capitales*, and *capitis dimicatio*, that is, [h] such cases wherein if the party accused had been found guilty he was *capite damnatus*: by which phrase we must not understand alwayes *Vltimum supplicium sed aliquando exilium, quo scilicet caput*, that is, *civis eximitur à civitate*. [i] These cases at the first were heard by the Kings & Consuls; afterward by certain appointed thereunto by the people, being called from their inquisition *quæsitores paricidii*. In continuance of time the examination and hearing of these publick cases was turned over unto certain Magistrates, who because they were to continue their office a full and entire year (whereas the others had their authority no longer then they sate in judgement) were thence for distinction sake called *Prætores Quæsitores*, and the cases were termed *Quæstiones perpetuæ*: [k] because in these cases there was one set form of giving judgement perpetually to remain; whereas in those private or civil causes the *Prætor* did commonly every year change the forme of giving judgement by hanging up new edicts. [l] Here we must note that these *Quæsitores Paricidarum*, otherwise called *Prætores Quæsitores*, had not the examination of all publike cases, but sometimes upon extraordinary occasions either the Consuls, the Senate, or the people themselves would give judgement. Now as those former *Prætors* had a spear erected up, whereby their Court for private causes was known; so had these *Quæsitores* a sword hanged out in token of their court. [m] *Prætorum insignia duo fuere, hasta, & gladius, illa ad jurisdictionem, hic ad questionē significandam.* The officers which did attend these *Prætors* were *Scribæ*, i. e. certain Notaries much resembling the Clerks of our Assises, their office being to write according as the *Prætors* or

h Fr. Sylv. in orat. pro Mur.

i Rosin. antiq. lib. 9. c. 18.

k Rosin. antiq. lib. 7. c. 11.

l Rosin. antiq. lib. 6. c. 18.

m Sig. de jud. lib. 1. cap. 7.

or chief Justices had bid them, taking their name *à scribendo.* The second sort were called *Accensi ab acciendo,* from summoning, because they were to summon men to their appearance. They much resembled our Bayliffs errant. The third sort were *Lictores*; of which before. *n* The authority of the Urbane *Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded, it had the name of *Jus honorarium.* *o* Others are of opinion, that onely the *Prætors* edict was that *Jus honorarium*; *p* the *Prætor Urbanus* being wont at the entrance into his Office, to collect a set form of administration of Justice out of the former Lawes and severall edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This forme of Justice was termed *Edictum, ab edicendo, id est, q imperando*; because thereby he did Command, or forbid something to be done. Whence *Pellitarius* in the place now quoted doth translate *Consulum edicta*, Mandatory letters, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætores edictum.* And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the vertue thereof was perpetuall (for that expired together with the *Prætors* Office, and therefore *r Tully* calleth it *legem annuam*) but in respect of other edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of edicts *s Tully* calleth *Peculiaria & nova edicta.* Afterward, *t Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperor. The Edict being given out, the administration of Justice consisted in the use of one of these three words, *Do,*

n Fenest. de Rom. magist. cap. 19.

o P. Pellit. in Cic. orat. pro A. Cœcinna.

p Pigh. Æq. per. com.

q Pellit. in Cic. orat. pro A. Cœcinna.

r Cic. in Ver.

s Cic. in Ver. 3.

t Sig. de jud. lib. 1. cap. 6.

u J. Camerar. in Cic. orat. pro Flacco.

Dico & Addico, id eſt, u *Dat actionem, Dicit jus, Addicit tam res, quàm homines.* That is, he is ſaid *Dare*, when he granteth out an action or writ againſt a man; *Dicere*, when he paſſeth judgement on him; and *Addicere*, when he in the Court doth ſee and allow the delivery of the thing or the perſon on which judgement is paſſed. The form of Addiction was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the perſon, againſt which ſentence was pronounced, uſing this form of words, *Hunc ego hominem, ſive hanc rem, ex jure Quiritium meam eſſe dico.* Then immediatly did the L. chief Juſtice *Addicere*, that is, approve the challenge, and grant a preſent poſſeſſion. *Ant. in Faſt. lib.* For explanation whereof we muſt know, that this word *Addico*, is ſometimes *verbum Augurale*, ſometimes *Forenſe*, ſometimes a tearm of Art belonging unto the diſcipline of the *Augures*, and ſo the birds are ſaid *Addicere*, when they ſhew ſome good and lucky token, that the matter conſulted about is approv'd by the Gods; the oppoſite hereunto is *Abdicere*. Sometimes this verb *Addico* is a tearm of Law ſignifying as *x* much as to deliver up into ones hands, or into ones poſſeſſion: whence we do not only call thoſe goods that are delivered by the *Prætor* unto the right owner *bona addicta*, but thoſe debtors alſo which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *ſervi Addicti*. Yea moreover becauſe in all port-ſales it was neceſſary that the *Prætor* ſhould *Addicere bona*, deliver up the goods ſold, hence doth this word often ſignifie to ſell, as *Addicere ſanguinem alicujus*, to take money to kill a man, to ſell a mans life. Touching the reaſon of their name, they were called *Prætores a precundo, quoniam jure præibant.* And *y* thoſe alone were properly tearmed *viri Prætorii*, which had born this Office, not they which were capable thereof: In the ſame ſenſe we ſay *Viri cenſorii*, and *Viri Ædilitii*, &c.

x M. Tullius in orat. pro Pub. Quint.

y Fr. Maturantius in Philip. 13.

CAP.

Cap. 7.

De Imperatoribus, Cæſaribus, ſive Auguſtis.

When *C. Julius Cæſar* had overcome *Pompey* his Sons in *Spain*, at his returne to *Rome*, the Senate welcomed him with new invented Titles of ſingular honour, ſtiling him *Pater patriæ*, *Conſul in decennium*, *Dictator in perpetuum*, *Sacroſanctus*, and *Imperator*, all which Titles were afterward conferred upon *Octavius Cæſar*, and all the Emperors ſucceeding deſired to be called *Imperatores & Cæſares* from him. Where we muſt underſtand that this name *Imperator* was not altogether unknown before, for by that name the *Roman* Souldiers were wont (even at that time) to ſalute their Lord Generall after ſome ſpeciall Conqueſt. z These *Roman* Emperours were afterward called alſo *Auguſti* from *Octavius Cæſar*, whom when the Senate ſtudied to honour with ſome noble Title, ſome were of the minde that he ſhould be called *Romulus*, becauſe he was in a manner a ſecond Founder of the City; but it was at length decreed by the advice of *Manutius Plancus*, that he ſhould be ſtiled by the name of *Auguſtus*, which we may Engliſh *Soveraigne:* And they counted this name of more reverence and majeſty then that former name of *Romulus*, becauſe all conſecrated and hallowed places were called *Loca Auguſta*. The authority of theſe Emperors was very great, even as great as the Kings in former times.

z Ser. Æn. lib. 6.

Cap. 8.

De principibus juventutis, Cæsaribus, & nobilissimis Cæsaribus.

[a] Rosin. ant. lib. 7. cap. 3.

[a] A Custom was received among the *Roman* Emperours in their life-time to nominate him whom they would have to succeed them in their Empire; and him they called *Princeps juventutis, Cæsar, & Nobilissimus Cæsar.* The like custom was practised by *Charles* the fifth Emperor of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperor, that upon the death, resignation, or deposition of the then being Emperor, he immediately should succeed.

Cap. 9.

De Præfecto urbis.

Romulus for the better Government of the City appointed a certain Officer called *Urbis præfectus*, to have the hearing of all matters or Causes between the master and the servant, between Orphans and their Overseers, between the buyer and the seller, *&c.* Afterward in time of the *Roman* Emperors, this *Urbis præfectus* did assume unto himselfe such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centissimum lapidem*, within an hundred miles of *Rome*: (for [b] *Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him.

[b] Despautenus *in* sua syntaxi.

I am

I am not ignorant, that ſome doe make this latter kinde of Prefecture, or Lieutenantſhip, a different Office from the former; but I ſhould rather think to be one, and the ſame, onely his authority to be more enlarged in the Kings abſence, and of this opinion doe I finde *Feneſtella. Alexand. Neopl.* and *c Sigonius.*

c Sig. de jur. Rom. lib. 1. cap 20.

CAP. 10.

De decem-viris legibus ſcribendis.

FOR the better adminiſtration of Juſtice, the *d Romans* appointed three men, namely *e Sp. Poſthumius, Ser. Sulpitius, A. Manlius,* to go to *Athens,* and other *Grecian* Cities, there to peruſe the *Grecian* Lawes: to the intent that at their return, both a ſupply might be made of thoſe Lawes that were wanting in *Rome,* and the other which were faulty might thereby be rectified and amended. At the return of thoſe three men, the Conſuls were depoſed, and both their authority and Enſigns given unto *f* ten men newly elected for the Government of the State, and were thence called *Decem-viri.* The firſt elected into this *Decemvirat,* were, *Ap. Claudius, T. Genutius, P. Sextus, Sp. Veturius, C. Julius, A. Manlius, Ser. Sulpitius, P. Curiatius, T. Romul. Sp. Poſthumius:* all of them ſuch as had born the Office of a *Conſull.* The Lawes which they brought from *Athens* were written at firſt in ten Tables of braſs: afterward two other Tables were added, at wch time thoſe laws began to be known and diſtinguiſhed from others by the name of *Leges 12 tabularum.* And according to thoſe laws Juſtice ever after was adminiſtred to the *Roman* people: at firſt by theſe ten men appointed thereunto, whoſe authority was as large even as the Kings and Conſuls in old time, only it was annual. One of them only had the enſigns of honour carried before him, one alone had the authority of convocating the Senate, con-

d Feneſt. de magiſt. Rom. cap. 14.
e Roſin. lib. 7. cap. 9.
f Lip. Reg. Leg.

firming theſe Decrees, and the diſcharge of all ſtate-buſineſſes, *e* the other did little differ from private men in their habit, only when the firſt had ruled a ſet time, the others ſucceeded by turnes. This kinde of Government did not continue long in *Rome*, for in the third year all their power was abrogated, becauſe of their Tyranny and oppreſſion uſed by them towards the *Roman* people.

e Roſin. ant. Rom. lib 7. cap. 19.

CAP. 11.

De Interregiâ poteſtate.

AFTER the death of *Romulus*, *f* the Senators divided themſelves into ſeverall Companies called *Decuriæ*, committing the Government of the Kingdome to that *Decury*, that is to thoſe ten men, upon whom the lot fell, calling them the *Interreges*: where we muſt know, that theſe ten did not rule all together, but each man ruled for the ſpace of five dayes, whence *g Roſinus* calleth this Magiſtracy *Magiſtratum Quinqueduanum*. After that five dayes Government had paſſed through the firſt, then did they goe to lots to have a ſecond *Decury* choſen, and ſo a third, *&c.* This of an *Interrex* remained even in the Conſuls time, ſo that if by ſome extraordinary occaſion the Conſuls could not be created, *h* then they choſe one, to whom alone they committed the whole Government of the Kingdome, and him they called *Interregem.*

f Dion. Haic. lib. 2.

g Roſin. lib. 6. cap. 16.

h Alex. Gen. dier. lib. 5. c. 6.

CAP. 12.

De Dictatore.

WHenſoever the *Romans* found themſelves encumbred with dangerous Warres, or any other eminent dangers, they preſently choſe a *Dictator* to whom

whom alone was committed the Authority and rule of the whole Kingdome, differing from a King onely in reſpect of his name and the continuance of his Office. Touching his name he was ſo called, *Quoniam dictis ejus parebat populus.* His Office cantinued but ſix months, and at the expiration thereof, if need required, he was choſen again for another ſix months. He was alſo called *i Populi Magiſter*, in as much as none could make their appeale from him unto the people. As ſoon as himſelfe was eſtabliſhed in his Office, he choſe a ſubordinate Officer, whom he called *k Equitum Magiſter*, his authority much reſembled his whom they called *Urbis præfectum:* for as the *Præfectus urbis* in the abſence of the King, ſo this *Magiſter Equitum* in the abſence of the *Dictator* had full and uncontrolable Authority of doing what he would.

i Viglius in Tyran.

k Sradius in Flor. lib. 1. cap. 11.

Cap. 13.

De Tribunis militum.

THeſe military *Tribunes* were of two ſorts: The one had all power and authority, which belonged unto the Conſuls; and thence were called *Tribuni militum conſulare poteſtate.* The occaſian of them was this: The Protector of the Commons called *Tribuni plebis*, did earneſtly labour that the Commonalty might be made as Capable of the Conſular dignity as the Nobility. This was followed ſo hot, that in the end though the Nobility would not grant them way unto that dignity under the name of *Conſulls*, yet in effect they would grant it them; Namely the *Conſulls* ſhould be depoſed, and in their ſtead other Magiſtrates ſhould be choſen, part out of the Nobility, part out of the Commonalty, who though they were not called *Conſulls*, but *Tribuni*, yet were they of Conſular authority. by which they were diſtinguiſhed from the other ſort of Military *Tribunes*, who had power and authority only in matters Military, and were known

l Roſin. ant. lib. 7. cap. 20.

known by the name of *Tribuni militum* without any addition. *n* Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *Comitiati*; not thereby to intimate unto us any distinction of Office or place, but to signifie their manner of election. For if they were chosen by the *Consulls*, then were they called *Tribuni Rutili*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an act of Law preferred by *Rutilius Rufus*, when he was *Consull*. If they were chosen by the Souldiers themselves in their Camp, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put in the place of another. Whence we may conject, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by some violent or unnaturall death. The last sort called *Comitiati*, were so called because they were chosen by the *Roman* Assemblies called in Latine *Comitia*. They were termed *Tribuni*, because at the first institution of them (whether we understand the Consular *Tribunes*, or this latter sort) there were but three of each. In processe of time notwithstanding I find the number not onely of those *Consular Tribunes*, *o* but of those other also to have been increased to six, accordingly as the thousands in a legion were multiplied. These latter sort of *Tribunes*, in respect of the military discipline, which was to see the Souldiers being faulty to be punished, wee may english *Knights Martiall*: In respect that their authority was over Foot-men onely, we may English them *Serjants Major*: Only this difference there was, to every thousand of Foot-men in any legion, there were as many military *Tribunes* under their chief Commander called *Imperator*. But in our English Armies there is but one *Serjeant Major*, who alone under the Lord Generall hath Command over all the Foot-men, be there never so many thousands.

n Alex. Genial. l. 6. c. 18

o Rosin. ant. lib. 7. cap. 20.

CAP.

Cap. 14.

De Triumviris Reipub. conſtituendæ.

THis tyranny of the *Triumviratus* began by a conſpiration between *Auguſtus Cæſar*, *Antonius* and *Lepidus*: For theſe three under the pretence of revenging *Jul. Cæſar* his death obtained chief power and Authority for the ſpace of five years throughout *Rome*, [p] pretending that they would ſettle the Common-wealth, which at that time by reaſon of *Jul. Cæſars* death was much out of order. Thoſe five years being expired, they refuſed to reſign their Authority, exerciſing exceſſive cruelty towards all the *Romans* of what degree ſoever. [q] This kinde of government remained but ten yeares, neither ever were there any other then thoſe three above-named. They had power to enact any new law, to reverſe any former Act, without the conſent of the Senate or Commons. They might proſcribe and baniſh any *Roman* at their pleaſure, and as often as we read *de Triumviratu* ſimply without any adjunction, or *de Triumviratu Senatus legendi*, we are to underſtand it of this, though ſome upon unſure grounds doe diſ-joyn them.

[p] Feneſt. de mag. Rom. cap. 21.

[q] Suet. Octav. Aug. cap. 27.

Cap. 15.

De Quæſtoribus Ærarii.

THIS office of the *Quæſtors* ſeemeth not unlike to a publike Treaſurer's, which collecteth the ſubſidies, cuſtomes, money, yearly revenews, and all other payments belonging to any ſtate or corporation. And hence [r] *quoniam publicæ pecuniæ quærendæ præpoſiti erant*, they took their name *Quæſtores*. Sometimes they are called *Quæſtores Urbani*, to diſtinguiſh them from the Provinciall *Quæſtors*,

[r] Feneſt. de Rom. magiſt. cap. 8.

which bare office in the *Roman* Provinces: ſometimes they are called *Quæſtores ærarii*, to diſtinguiſh them from thoſe that were called *Quæſtores paricidii*, or *rerum capitalium*, of which you may ſee more in the tract *de Prætoribus*. Laſtly they were called *Quæſtores ærarii*, to diſtinguiſh them from the *Tribuni ærarii*, i thoſe Martial Treaſurers, or Clerks of the band, which did receive the Souldiers pay from theſe City-Treaſurers, and ſo pay it to the Souldiers. The office of thoſe City-Treaſurers (then being at firſt but two) was to receive all the City accounts; to disburſe at all occaſions of publike expenſes; to take an oath of him that the Souldiers had ſaluted by the name of *Imperator*, that he had truly informed the Senate both of the number of enemies ſlain, as alſo of the number of Citizens loſt: otherwiſe he might bar the Emperor of his triumph. Moreover, whatſoever ſpoiles were taken in war, they were delivered up unto theſe City *Quæſtors*, and they ſelling them, laid up the money in the great Treaſure-houſe called *Ædes Saturni*.

t Sig. de jur. Rom l. 2. c. 8.

Cap. 16.

De Tribunis Plebis.

THE u *Roman* Commonalty finding themſelves oppreſſed by the wealthier ſort, departed unto the *Aventine* Mount, threatning the *Roman* Nobility, that they would forſake the City, and never again adventure themſelves in war for the defence thereof, unleſſe they did finde ſome releaſe and eaſement from thoſe exceſſive payments of uſe and intereſt unto their Creditors: yea beſide the remiſſion of their preſent debts, before they would return unto their City again, they would have certain Magiſtrates choſen, which ſhould be x *Sacro-ſancti*, that is, ſuch as might not be hurt or violently uſed, not ſo much as in word, and if any had violated that law, whereby they were made *Sacro-ſancti*,

u Rolin. epit. rerum. Rom.

x Roſin. ant. l. 7. c. 25.

ſancti, then was he accounted *homo ſacer*, that is, an excommunicate perſon, or ſuch an one whoſe ſoul ſhould be vowed unto ſome God; inſomuch that if any after had killed him, he ſhould not be liable unto judgement, [y] *quoniam illius anima diis devota amplius humani commercii non ſit.* To thoſe Magiſtrates the protection of the Commons was committed, who becauſe they were at firſt choſen out of the *Military Tribunes*, therefore did they alwayes retain the name of *Tribunes*, being ſo called that they might be diſtinguiſhed from the others *Tribuni Plebis*, Protectors of the Commons. At the firſt inſtitution of them, they were in number but two, as [z] ſome have thought; [a] others ſay five: afterward (as it is yeelded by all writers) they increaſed unto ten. Their authority at firſt conſiſted chiefly in this, that they hed power to hinder any proceedings in the Senate, which they thought might prove prejudiciall unto the Commons, ſo that they had not authority to enact any new decrees, as afterward by abuſing their authority they did. [b] *Sed eorum authoritas magis in intercedendo quàm jubendo.* And hence was it that in old time theſe Protectors of the Commons were not permitted to come into the Senate: but [c] they ſate without at the dore, whither whatſoever was determined within the Senate was ſent unto them to be peruſed by them, and if they did approve it, then did they ſubſcribe a great *Roman* T. being the firſt letter of this word *Tribuni*. [d] The houſes of theſe Tribunes ſtood open night and day, as a common refuge or place of ſuccor for all that would come; [e] neither was it lawfull for them to abſent out of the town one whole day throughout the year.

y Alex. Gen. dier. l. 6. c. 14. Roſin. ant. lib. 7. cap. 23.

z Pighius in ſuo Tyrannifug.

a Pomp. Læt.

b Stadius in Flor. l. 3. c. 2.

c Pigh. in ſuo Tyrannifug.

d Roſin. ant. Rom. lib. 7. cap. 23.

e Pighius in Tyrannifug.

CAP. 17.

De Ædilibus, & Præfecto annonæ.

WE may reade of three ſorts of *Roman* Magiſtrates called *Ædiles*, the two firſt had their name *ad*

ædibus curandis, having in their charge to repair both Temples and private dwelling houſes which belonged unto the City. The firſt ſort were called *Ædile curules*, *à ſella curuli*, from the chair of ſtate, wherein it was permitted them to ride, and theſe were choſen [f] out of the *Senators*. The ſecond ſort were called *Ædiles plebeii*, and they were added unto the former at the earneſt ſuit of the Commons, they being to be choſen out of them. Where we muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelf ſame time, [g] but that the *Curules* ſhould rule the one year, and the *Plebeii* the other. To theſe *Ædiles* it did belong, beſides the reparations of Temples and private houſes, to look unto the weights and meaſures in common ſale: for they had power to examin *Actiones redhibitorias*, that is, ſuch actions, by vertue of which he that had ſold any corrupt or ſophiſticated wares, was conſtrained to take them again. Moreover they had the charge of the publike conduit or water conveiances, of proviſion for ſolemn playes, *&c.* Of the third ſort there were alſo two, who were in a manner Clarkes of the market: [h] For unto them belonged the looking unto the victuals ſold in the market, and corn: Whence they were called by them *Ædiles cereales*, and [i] by the Greeks ἀγορανόμοι. This office for ought that can be collected out of thoſe that treat of it, differeth but little from his, whom the *Romans* called *Annonæ præfectum*, only this, the *Ædiles cereales* were *Magiſtratus ordinarii*, the *Præfectus*, *extraordinarius*, namely [k] ſuch as was choſen only in time of extraordinary dearths: he having for that time larger Authority then thoſe ordinary Clarks of the market. For as it appeareth by *Roſinus* in the place now quoted, this *Præfectus* had power of himſelf to examine all ſuch caſes or queſtions as ſhould ariſe touching the dearth: as ſuppoſe the hoarding of corn, fore-ſtalling the market, &c.

f Pilet in l. 2. Cic. epiſt. fam. 10.

g Alex. Gen. dier. l. 4. c. 4.

h Alex. Gen. ibid.

i Pighius in ſuo Tyramiſ.

k Roſin. ant. l. 7. c. 38.

CAP.

Cap. 18.

De Triumviris.

BEſide that *Triumviratus Reip. conſtituendæ*, of which we ſpake before, there were divers kindes of *Triumviratus*, namely *Triumviri capitales*, three high Sheriffs, who had the charge of priſons, and were to ſee malefactors puniſhed. For which purpoſe eight *Lictors* did attend them. There were alſo [l] *Triumviri Minarii*, three men, we may term them Bankers, who had Authority to pay out of the common Treaſury poor mens debts. Sometimes there were appointed five to this office, whence they were called alſo [m] *Quinq; viri Menſarii*, both being called *Menſarii* from *Menſa*, a Table whereon they told their money. Another ſort of *Triumviri* there were appointed to preſſe Souldiers, whence they were called *Triumviri conquirendi juvenes idoneos ad arma ferenda.* We reade alſo of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in tranſplanting Colonies, and thence were they named *Triumviri coloniæ deducendæ*; but ſometimes for this purpoſe they elected ſeven, ten, or twenty, and ſo named them *Quinq; viri, Septemviri, Decemviri*, and *Vigintiviri Coloniæ deducendæ*. Three other ſorts of *Triumviri* remain, which were Officers of ſmall account, as the *Triumviri monetales*, three Maſters of the Mint, who thence were called *Triumviri, A.A.Æ.F.F.* that *Auro, Argento, Ære, Flando, Feriundo*, for they had the charge of coining the money. Secondly, *Triumviri valetudinis*, Three Peſt-men, which were to overſee thoſe that lay infected with any contagious ſickneſſe. Thirdly, [n] *Triumviri nocturni*, three Bell-men which were to walk the town at night, and to give notice of fire.

[l] Alex. Gen. dier. l. 3. c. 16.

[m] I. Camerar. in orat. Cic. pro Flacco.

[n] Alex. Gen. dier. l. 3. c. 16.

Cap. 19.

De Præfectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should alwayes be in readinesse for the defence of the City, desired of the City a yearly subsidie for the maintenance of those Souldiers: but being denied it he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his money for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be inriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall into this Treasury. For the charge and custody hereof he appointed three of those Souldiers which alwayes attended about him for the safeguard of his person, calling them *Præfectos Ærarii*.

Cap. 20.

De Præfecto Prætorio.

ALL Captaines and Governours to whom the rule of any Army belonged were in ancient time called [o] *Prætores*: This word *Prætor* signifying then three chief officers among the *Romans*; first a Consul, secondly a L. chief Justice, thirdly a I. General in war; all of them being called [p] *Prætores, quasi Præitores, quoniam jure & exercitu præibant*. Answerable to which three-fold acception, this word *Prætorium* hath three severall significations: sometimes it signifieth a Princes place or Mannor-house, sometimes

o Pancirol. in notitiam imper orient c. 5

p Pighius in Æquipet. compos.

times a great hall or place where judgement was wont to be given, and laſtly the L. General his pavilion in the camp; q from which laſt ſignification it is, that thoſe Souldiers that give attendance about that pavilion for the guard of their Captaines perſon, are ſometimes called *Milites Prætoriani*, ſometimes *Cohors Prætoria*. r And he to whom the overſight of the Souldiers was committed, was thence called *Prætorio præfectus*.

q Aſconius in Verrinam.

r Fr. Sylv. in Catil. 2.

Cap. 21.

De Advocato fiſci.

FOR the right underſtanding of this office, we muſt firſt note a difference between theſe two words, *Ærarium* and *Fiſcus*, *Ærarium* was a common Treaſury belonging to an whole ſtate or corporation, whence all publike and common expences are to be ſupplied. *Fiſcus* was the Kings or Emperors private coffers: it may be engliſhed the *Kings Exchequer*. The keeper thereof was called *Advocatus Fiſci*. There are many other petty offices within the City which I have purpoſely omitted, becauſe there is but ſeldome mention of them in old Authors, and as often as they are mentioned, their names do explain their office.

Cap. 22.

De præcipuis Magiſtratibus provincialibus.

OVer the Provinces at firſt ruled certain Magiſtrates ſent from *Rome*, by Commiſſion from the *Roman* Senate, called *Prætores*, whoſe office was to adminiſter juſtice unto the Provinciall inhabitants, yea, and if occaſion ſerved, to make war alſo upon their enemy, and this was the reaſon that the numbers of the *Prætors* did ſo increaſe alwayes

alwayes, namely according as the number of Provinces did increaſe. The wars and tumults in the Provinces ſometimes were ſo great, that the *Prætor* was not ſufficient both to manage war and execute juſtice: whereupon the Senate thought fit to ſend another Magiſtrate into the Provinces, whom they called a *Conſul*, becauſe properly the managing of war belonged unto the *Conſul*, ſo that there were at firſt two ordinary Provincial Magiſtrates, a *Conſul* to manage war, and a *Prætor* or L. chief Juſtice to ſit in judgement. And if theſe two by a ſecond grant from the *Senate*, did continue in their office above the ſpace of a year, then were they called *Proconſules, & Propretores*. But in proceſſe of time this cuſtom was altered: For then none could be *Proconſuls*, but thoſe alone who had been *Conſuls* in *Rome*: neither could any be *Propretors*, which had not been *Prætors* at *Rome*. Their manner being, that the next year after the expiration of their offices in *Rome*, they ſhould depart into ſome certain Province, to bear the ſame offices again, being not called *Conſules* or *Prætores* as before, but [f] *Proconſules* & *Propretores*: and for this cauſe alwayes ſo ſoon as the *Conſuls* had been created, the *Senate* did appoint certain Provinces for the *Conſuls*, which being appointed, the *Conſuls* did either agree between themſelves, who ſhould go to the one, who to the other, and that was termed *comparare provincias*; or elſe they did decide the queſtion by lots, and that was termed *ſortiri provincias*: howbeit, ſometimes the *Senate* did interpoſe their authority, and diſpoſe the ſame. Under the Emperors the Governours of ſome Provinces were appointed by the *Senate*, and the people, and thoſe were called *Proconſules*, and the Provinces, [t] *Provinciæ Conſulares*: others were appointed by the Emperors, and they were called *Propretores*, and the Provinces *Prætoria Provinciæ*. For all this which hath been noted touching the Provincial Magiſtrates, it is almoſt *verbatim* tranſlated out of [u] *Roſinus*. To which we add this, namely that every *Proconſul* and *Propretor* did uſually

[f] Alex. Gen. dier l. 3. c. 3.

[t] Camerar. pro L. Fiacco.

[u] Roſin. ant. lib. 10. c. 24.

uſually chooſe a Lieutenant ſuch a one as ſhould be aſſiſtant unto him in matters of Government, whom they called *Legatum*, ſo that this word *Legatus* ſignifieth three ſeverall Magiſtrates among the *Romans*: two whereof may be proved out of *y Sigonius*: firſt that it ſignified ſuch a Lieutenant, or Lord Deputy under a *Proconſul*, or *Proprætor* in a Province. 2ly, that it ſignified ſuch a one as is imployed in the delivery of a meſſage or embaſſage from one Prince or State to another; we commonly call them *Embaſſadors*. Laſtly, it ſignified a Lieutenant or chief Captain in war, whoſe place was next under the L. Generall. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the L. Generall in Counſel; whence *Polybius* commonly joyneth theſe two together, πρεσβυτὲς καὶ συμβόυλοι, that is, *Legatos & Conſiliarios*, that the latter word might expound the former. *Liſp. de mil. Rom. l.2. dial.* 11. Moreover every *Proconſull* and *Proprætor* had with them certain Treaſurers called *Quæſtores provinciales*: Theſe Provinciall Treaſurers *a* were choſen by the *Roman* people commonly, namely ſuch a number as the number of Provinces did require. After the election, they between themſelves did caſt lots who ſhould go unto the one, who unto the other Provinces: *b* ſometimes extraordinarily by vertue of ſpeciall act or decree, this or that ſpecial man hath obtained this or that Province without any lottery. By the way we muſt note, that all Provinciall *Quæſtors*, could not be called *Proquæſtors*, as all Provinciall *Conſulls* and *Prætors* were called *Proconſules* and *Proprætores*: *c* For theſe only were called *Proquæſtores*, which did ſucceed theſe Provincial *Quæſtors*, when they did either dye in their office, or depart out of the Province, no ſucceſſor being expected from *Rome*; at which times it was lawfull for the *Proconſull* or *Proprætor* to chooſe his *Proquæſtor*. Moreover there were beſide theſe *Legati & quæſtores*, *d* other Military Officers, ſuch as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferiour officers, as their Secretaries, Bayliffs, Cryers, Serjants, and ſuch like.

x Pomp. Lætus de mag. Rom.

y Sig. de jure prov. l.2.c.2.

a Sig. de jure Prov. l.2.c.3.

b Sigon. lib.

c Roſin. ant. q. Rom l. 7. cap. 45.

d Sig. de jure Prov. l.2 c.2.

LIB. III.

SECT. 3.

Of the Roman *Puniſhments.*

CAP. I.

Supplicia, Mulcta, Lex Ateria, Tarpeia, Ego eo unum ovem mulctam dico, &c.

THouching the Military Puniſhment, which belonged to the Military diſcipline, it ſhall be treated of in its proper place. Here only of the City diſcipline, and the uſuall Puniſhments exerciſed therein, which we may divide thus. Puniſhments publickly inflicted on malefactors, are either *Pecuniary mulcts*, or *Corporall puniſhments*: The *Pecuniary mulcts* were of two ſorts; either an appointed ſum of money was required of the party guilty, and then it was called *Mulcta*; or his whole Eſtate was ſeiſed on, and then it was termed a *Confiſcation* of his goods. The *Mulct* was two-fold, the one termed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe *a Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & triginta boum, pro copia ſcilicet boum, & penuria ovium, ſed cùm ejuſmodi mulcta pecoris, armentiq, à magiſtratibus dicta erat adige-*

a Gellius lib. 11.

adigebantur boves ovesq́, alias pretii parvi, alias majoris, eaq́, res faciebat inæqualem mulctæ punitionem; idcirco postea lege Ateriâ constituti sunt in oves singulas æris deni, in boves æris centeni: Minima verò mulcta fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem mulctam dico*, &c. The law which *Gellius* calleth *Ateriam legem*, *b Festus* calleth *legem Tarpeiam*, because *Aterius* enacted it, when he was Colleague or fellow-Consull with *Tarpeius*. Likewise we may take notice of the clemency used in those times. It was provided by the Law, that seeing there was greater plenty of Oxen, then of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine *c Bovem prius quàm Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.*

b Festus in voce pecular.

c P. in lib. 18 cap. 3. It. Alex. ab. Alex. lib. 3. cap. 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua, & Igni interdici, Proscriptio, Lata fuga, Deportatio, προγράφειν σηλιτεύειν Ærarii, In ærarios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments are either such as were *Capital*, depriving a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a civil acception, for the losse of freedome, which the *Romans* called *capitis diminutionem*, Disfranchising, because in every *Free-man* thus disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the losse of ones life, and this they called *Ultimum supplicium*. That disfranchising called *Capitis diminutio*, was *d* three-fold. *Maxima, Media, & Minima*. The least degree was, when the

d Rosin. ant. lib. 9. cap. 3.

Censors pulled a man from an higher Tribe, down to a lower and leſſe honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voyce in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In æravios relati*, e *quia omnia alia jura civium Romanorum præterquam tributi & æris conferendi amiſerunt*. This kind of puniſhment, as it may ſeem, was many times exerciſed for irreverend geſture, or ſpeeches uſed by ſuch as were queſtioned by the *Cenſors*. Three ſeverall examples are noted by *f Gellius*; the laſt is this, *P. Scipio Naſcica*, and *M. Pompilius* being *Cenſors*, taking a view of the *Roman* Knights, obſerved one of them to have a lean ſtarvling horſe, himſelf being fat, and in good plight, whereupon they demaded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus. Diminutio media*, was an exilement out of the City, without the loſſe of ones freedome: *g* It was commonly ſet down in this form of words, *Tibi aquæ & ignì interdico*. And it ſeemeth by *h Cœlius Rhodiginus*, to be all one with that kind of baniſhment, which the *Romans* called *proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe he will not appear in the Court: the form thereof is thus, The Creditors having obtained leave of the *Lord chief Juſtice* to proceed in this manner, they committed the ordering of the ſale to one principal Creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in forme as followeth, *i Ille debitor noſter in ejuſmodi cauſa eſt, ut bona ejus divendi debeant, nos creditores patrimoniam ejus diſtrahimus, quicunque emere volet, adeſto*. But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great confuſion in the Authors that treat of this puniſhment; and becauſe

e Sig. de jure Rom. lib. 1. cap. 17.

f A Gel noct. Artic. l. 4. c. 17

g Camerar. In orat. Cic. pro Muræn.

h Cœl. Rhod. lib. 15 cap 17

i Roſin. ant. lib 9. cap. 12.

because both were performed by solemn and publike Proclamations, hence the name *proscriptio* agreed as weil to the goods confiscated, as to the persons banished: according to that, *k Quoniam eorum nomina in publico scribebantur, hinc proscribi dicibantur.* Hence the *l Grecians* used not only the word προσρόνειν but also στηλιτεύειν, to signifie the act of *proscription*, because they wrote in a publike pillar the faults and offences of such as were thus banished. But to proceed without farther digression. *Diminutio maxima* was the losse both of the City, and the freedome; and this I take to be the same which in other times was called *Lata fuga*, or *Deportatio*, namely a perpetuall exilement: All stand ng in opposition to that other kinde of banishment, called *Relegatio*, which was the exilement * only for a season, happily for five years, *&c.* see *C. Rhod. lib.* 10. *cap.* 5. Though I deny not but that *lata fuga* was so called, not onely in respect of the duration of time, it being a perpetuall banishment, but also in regard of the places so generally prohibited, *m* for he that was thus banished, was tyed and limited to one peculiar Countrey, all other places in generall being forbidden him. Those punishments that deprived of life in ordinary use, and of which there is most frequent mention in *Roman* Authors, are these which follow, *Furca, Crux, Carcer, Culeus, Equuleus, de rupe Tarpeia dejectio, Scalæ, Gemoniæ, Tunica, Damnatio in gladium, in ludum, ad bestias.* In generall we are to note, that the execution was without the gates of the City, to prevent the noysomnesse which such abundance of blood might occasion, *n* for which reason the executioner dwelt without the City. Likewise those that were adjudged to death, when they went to the place of execution a certain little Bell was tyed about them, that by the sound thereof, the people might beware of touching the condemned person, because the very touch of him was counted a kinde of pollution: this *o Turnebus* observeth out of *Zonaras*, and from hence the Executioners are called *p Lanii cum tintin-*

k Fr. Matur in Philip. orat. 5.
l Suidas in voce στήλη

* Adde quod edictum quāvis in mite minaxq; Attamen in pœnæ nomine lene fuit; Quippe relegatus, non exul dicor in illo. Ovid de trist. lib. 2. Eleg. 1.
m Tholosan. syntag. jur. univers. lib. 31.
n Plaut. Cas. 2. 6.

o Turn. adv. lib. 11. c. 21.
p Plaut. pseud. lib. 3.

q Roſin. ant. q. lib. 10 cap 29

cum tintinnabulis. And for this reaſon *q* it was, that a little bell and ſcourge was hanged up in the hindmoſt part of the Chariot, wherein the Lord Generall did ride in his triumph, a publike Officer which rid with him in the ſame Chariot, now and then plucking him behinde, and bidding him look back, uſing this form of words, *r Reſpice poſt te, hominem memento te*, that is, Sir look behinde you, remember your ſelfe to be but a man. For the ſight of the ſcourge and bell ſerved to put him in minde, that notwithſtanding his preſent triumph and acclamations, his after-miſeries might be ſuch, that he might be puniſhed not only with whips, but even with death it ſelf.

r Tertul. Apolog. cap 33.

CAP. 3.

Furca, Furcifer, Supplicium more Majorum, σπρίγμα.

ANcient Authors which doe write of the *Roman furca*, doe rather mention it, then explain it, but if we diligently obſerve what they ſpeak of it, we ſhall finde the uſe thereof to have been three-fold. The firſt ignominious, which *a* was when the Maſter forced the ſervant for ſmall offences *furcam circa urbem ferre*, to carry this *furca* upon his ſhoulders about the City, confeſſing his fault, and admoniſhing others to beware of the like offence, and *b* hence ſuch a ſervant was afterward called *furcifer*; and here I think was uſe of thoſe *ſtimuli* or goads whereof I ſhall ſpeak more in the Chapter following; namely that when the party thus to be puniſhed dragged back, and ſhewed himſelfe unwillingly, then did the Executioner prick him forward with theſe kinde of goads. The ſecond ſort was penall, when the party having the *furca* on his neck, was led up and downe the Cirque, or ſome publique place, and on the way to be whipt, but not unto death, *c* thus *C. Matienus damnatus ſub furca din virgis cæſus erat, & ſeſtertio nũmo veniit.* He was after-

a Iſidor. orig. lib. 10.

b Plutarch. in Coriol.

c Epit. Livii dec. 5. lib. 6.

afterward sold, and therefore died not under the punishment. The third sort was penall too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar name called *d supplicium more majorum.* This yet differed from that beheading with an Ax, which was in use among the *Romans*, and called by the *Grecians* πελεκισμὸς from πελεκὺς signifying an ax or hatchet; it differed I say from this, because howsoever there were in this σαυρῶ πρόσδεσις, a tying the party to a stake, or post, and also μαστίγωσις a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the *e* execution of *Antigonus* the King of the Jewes. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wayne unto which the yokes are fastened; it resembleth a forke, and the *furca* is called ξύλον διπλοῦν, δικροῦν, δίδυμον, *id est lignum duplex, bicornutum, geminum*, in english a forked piece of timber; there is no such piece through the whole Wayne, as the form of Waynes is in these times, but onely the beam thereof. *f Plutarch* treating of the *farca*, saith that it is ξύλον ἁμάξης ᾧ τὸ ῥωμὸν ὑπρείδουσι, that is, a piece of timber about the wagon or wayne, wherewith they upheld the beam; and he addeth, that what the *Grecians* call ὑποσάτην and στήριγμα, the *Romans* call *furca*: now *Hesychius* describeth στήριγμα to be τὸ δικροῦν ὃ περ ὑπογιθέασι τῷ τῆς ἁμάξης ζυγῷ, that is, the forked piece of timber, which they put under the yoak of the Wayne; correct *Plutarch* by *Hesychyus*, and for τὸν ῥυμὸν read τὸ ζυγὸν, and you have in both, the description of the beam in the Wayne. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wayne was upheld whiles it was unloaded, but how this can stand with *Hesychius* his description of στήριγμα, I am yet to learne; not-

d Suetonius in Ner. 49.

e Dion. lib. 49

f Plut. in Coriol.

notwithstanding if we admit this interpretation, that which I would hence infer, is rather confirmed, then any way weakned, namely that the form of the old *Roman furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the ancient *Romans* any other was in use. True it is that in after ages the form thereof was the very same with our *Gallowses*, which are now in use, and this happily began, when the use of crucifying was interdicted, which interdiction we read first to have taken place in *g Constantines* time.

g Sozom. Eccles hist lib 1. cap. 8.

Cap. 4.

Crux, Servile supplicium. Titulus.

CRucifixion hath been a punishment in ancient use among the *Romans*; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldome times free-men, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet *h* sometimes free-men, though of the baser sort, and for notorious offences, were adjudged to this kind of death; nay a clear example hereof we have in that * Guardian which *Galba* crucified for poysoning his ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen, Galba* as if he would allay his punishment with some comfort and honour, commanded the Crosse already made to be changed, and another to be reared far higher then the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their crosse upon their shoulders to the place of execution. *i Malefici cùm ad supplicium educuntur, quisq; suam effert crucens.* *k Artemidorus* is as plaine εοικε γὰρ ὁ σταυρὸς θανατῳ καὶ ὁ μέλλων προσελῆσθαι, πρότερον αὐτὸν βαράζει, that is, The Crosse is like unto death, and he which was to be crucified did first bear it. The party that suffered this kinde of death was first stripped

h Vid. Lips. de cruce. lib 1 cap. 11.
* Suet. Galb. 9.
i Plut. de sera numinis vin.
k Vid. Lips de cruce. l. 2. cap. 5.

ped of all his cloaths, for he suffered *l* naked; then was he fastened unto the Crosse, and that commonly with nails, the Greek word πρασήλωσις clearly evinceth as much, we may render it *Clavifixio.* Now that the equity of the proceeding might clearly appear to the People, the cause of his punishment was written in Capitall letters, hence *m Dio* speaketh of a servant dragg'd to the Crosse, μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούντων. that is, with letters declaring the cause of his death. This inscription was called αἰτία, *Mat.* 27. 37. It was also called τίτλος, *John* 19. 19. from the Latine word *titulus* used in the same sense. And sometime ἐπιγραφὴ τῆς αἰτίας, *Mar.* 15. 26. or simply ὑπιγραφὴ, *Luke* 23. 38. *n Tertullian* and *o Suetonius* calleth it *elogium.* The like kinde of publishing the cause, either by an inscription, or by the voyce of a common Cryer, was not unusuall in other capitall punishments, as *Attalus* the Martyr was led about the Amphitheatre, πίνακος αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαϊστὶ ὅσπερ ὅστιν Ατταλὸς ὁ χριστιανός. *i* A Table being carried before, in which was written in Latine, *This is Attalus the Christian.* That of *q Suetonius* is not much unlike, *Patrem familias detractum è spectaculis in arenam canibus objecit, cum hoc titulo, Impiè locutus Parmularius.* What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers.* Moreover such as were to be crucified, they were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much; the parts whereof are two: First, *r Verbera intra aut extra pomerium.* Secondly, *Arbore infelici suspendito.* This whipping was sometimes *sub furca*, for this * *Valerius* is plain, *Cum servum suum verberibus mulctatum sub furca ad supplicium egisset:* sometimes *ad columnam. Artemidorus* is clear in this προσδεδεὶς κίσσι πολλὰς ἐλαβεπληγάς, that is, being tyed to the Pillar he received many stripes. Happily *s Plautus* alludeth to the same.

—— *abducite hunc*
Intro atq; adstringite ad columnam fortiter.

l Artimed. lib. 2. 51.

m Vid. Lip. de truc. l. 2. c. 11.

n Apol c. 11.

o Suet. in Cal.

p Euseb. eccl. hist. lib. 5. c. 1.

q Suet. Domit. cap. 10.

r Liv. lib. 1.

* Valer. Max. l. 1. c. 7.

s Plaut. Bace.

t Prudentius Hieronym Beda vid. Lipſ. de cruce. l 2. c. 4.

Yea the ancient *t Fathers* ſay that our bleſſed Saviour was thus whipt: Touching the place or manner the Scripture is ſilent, only that he was whipt it teſtifieth, and that with ſcourges. Τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκε ἵνα σταυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unqueſtionable, but that they ſhould be whipt on the way towards the place of execution, I much doubt, much more that they ſhould be goaded on the way with pricks and goads by the executioner. That there was *u Stimuleum ſupplicium*, a kinde of puniſhment with pricks and goads, is evident, and hence cometh that phraſe *Stimulo fodere*, and hence that other phraſe, *Kicking againſt the pricks*. Paralell to which is that of *Plaut. Truc.* 4. 2. *Stimulos pugnis cedere*. But this kinde of puniſhment I take to have been exerciſed only by Maſters towards evill ſervants, and that not as preparatory to death, but for their reformation in future times: whence by way of contempt, a ſervant thus handled, was termed *x Carnificinum cribrum*, becauſe he had his back ſo boared with thoſe pricking inſtruments, that it looked like a ſieve full of holes. Otherwiſe, if we underſtand it as a puniſhment impoſed by publike authority, we may ſay, that thereby is denoted a certaine puniſhment, exerciſed towards Theeves in time of their Examination, that by the pricking and goading of them, the truth might be confeſſed, * for to that end Theeves were thus tortured, and thence were they called *Centrones*, from κέντρον *Stimulus*. Laſtly, we muſt remember that theſe three words, *Furca*, *Crux*, and *Patibulum*, are many times uſed promiſcuouſly, ſignifying the whole Croſſe on which malefactors ſuffered, but in ſtrict propriety of ſpeech, *Furca* ſignifieth that forked inſtrument of which we treated in the former Chapter; *Crux*, that erect part of the Croſſe ſtanding upright; and *Patibulum*, the thwart piece of Timber upon the top of the Croſſe: yet ſometimes alſo *Patibulum* is taken for the *Roman furca*, whence *Patibulatus* and *Furcifer* are uſed as words equivalent, and in both ſenſes it may borrow its

u Plaut. Mil. 26.

x Plaut. Moſt

* Cœl. Rhod. lect. antiq. l. 1. c. 5.

its name from *Pateo* to lay open; becauſe as the malefactors hands were ſpread abroad being faſtned to the thwart piece of timber upon the top of the Croſſe: ſo were they likewiſe ſpread abroad under the *Furca*, his two hands being tyed to the two forked ends thereof.

Cap. 5.

Carcer, Ergaſtulum, Tullianum, Robur, Mala manſio, Nervus, Collumbar, Numella, Codex.

HOwſoever *Carcer* and *Ergaſtulum* are uſed promiſcuouſly by modern writers, yet if we diligently enquire into each words origination, and how they have been uſed by more ancient Authors, we ſhall finde them thus differenced: *Ergaſtulum* was a Priſon much reſembling our houſe of *Correction*, into which ſervants only were caſt; *Carcer* a more publike Priſon, unto which men of better rank and faſhion upon juſt occaſion were committed. Secondly, the power of ſentencing any ſervant to the *Ergaſtulum*, was proper and peculiar to the Maſter of the ſervant, without approbation from publike Authority, but the power of committing to the Priſon called *Carcer*, was onely in the Publique Magiſtrate. Thirdly, *Ergaſtulum* took away only the liberty and pleaſure of life: *Carcer* life it ſelfe. The word *Carcer* hath his name *à coercendo*, from reſtraining men of their liberty. *a* It had two principall parts, the one called *Tullianum*, the other *Robur*, beſides many other roomes wherein men were kept cloſe Priſoners: Thoſe two places were aſſigned for execution. In that which they called the *Tullianum* (we may engliſh it *Dungeon*) they ſtrangled malefactors. *b* It had its name from *Servius Tullius* a *Roman* King the firſt inventor and Author thereof. Of this *Saluſt* writeth, *Eſt locus in Carcere quod Tullianum appellatur, ubi paula-*

a Sig. de jud. lib. 3. c. 17.

b Sig. bid.

tim aſcenderis ad lævam circiter duodecim pedes humi depreſſus, eum muniunt undiq; parietes, atq; inſuper camera lapideis fornicibus juncta ſed inculta, tenebris, odore fœda; atq; terribilis ejus facies eſt. In that other place which they called commonly *Robur*, ſometimes *c Robuſtus Codex*, ſometimes *d Cuſtodia lignea*, ſometimes *e Italum robur*, (our Engliſh phraſe *ſtrong hold* fitly anſwereth it) they broke malefactors necks by a kind of præcipitation or tumbling them headlong *f* from a certain ſtock of a Tree faſtned there in the earth; unto this *Tully* alludeth, *Quæro fregeris ne in carcere cervices illi ipſi Vectio:* But more expreſly *Plautus*, g *Ai ego faciam vos ambos in robuſto carcere ut pereatis.* Thoſe that had the chief overſight in ſuch executions were called *Triumviri capitales*, that is, *High Sheriffs*. The whole proceeding is ſet downe by *Valerius*, h *Mulierem damnatam Prætor Triumviro nocandam in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordiâ motus non protinus ſtrangulavit; aditam etiam filiæ dedit, ſed diligenter excuſſæ, ne quid ſibi inferret, exiſtimans futurum, ut inediâ conſumeretur; cùm vero animadvertiſſet filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium judicum pertulit, & remiſſionem mulieri impetravit.* It is much controverſed among Interpreters what that kinde of puniſhment was which they termed *Malam manſionem*, we may engliſh it *Little-eaſe*. Some underſtand hereby a certain deep dungeon, made in the form of a pit or well, called therefore in Latine *Puteus*, but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeviſh Cooks: *i Coqui abſtulerunt, comprehendite, vincite, verberate, in puteum condite.* Others underſtand hereby a cloſe Priſon, which becauſe of its ſtraightneſſe and cloſeneſſe they called *arcam*, a cheſt: the uſe of this Priſon, was for the ſafe-keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe Priſons *Tully* ſpeaketh, *Subitò abrepti in quæſtionem, tamen ſeparan-*

c Plaut. Pœn. 5. 3.
d Plaut. Pœn 5. 6.
e Hor. lib 2. od. 12.
f Tuſc. lib adv. l. 24. c. 21.
g Plaut. in cur. act. 5. ſc. 5.
h Valer. l. 5.
i Plau. Aul. 2. 5.

parantur à cæteris, & in arcas conjiciuntur, ne quis cum his colloquo poſſit. Another kind of Priſon there was, called *Sextritium*, thus it is commonly rendred in Latine, but the Greek word is σεσήρτιον, and accordingly *a Turnebus* renders it *Seſtertium*, being of opinion that it was ſo called from the quantity of ground it contained, namely two acres and a half. *C. Rhodiginus* thinketh that *Spoliarum* and *Sextritium* were not places unlike, but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where thoſe were executed whom the *Roman* Emperours adjudged to death: now whether that *Spoliarium* were a place of Puniſhment I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed ἀποδυτήριον. both doe ſignifie primarily little Cells or Chambers neer adjoyning to the Bath, where ſuch as waſhed themſelves laid up their cloaths: In a borrowed ſenſe both are uſed to ſignifie Chambers and Cells adjoyning near unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and becauſe ſuch as were wounded in fight were carried into thoſe Chambers, where they languiſhing with much paine, at laſt notwithſtanding expired for the moſt part, and that not without much torturing of the Chyrurgion; hence ſuch a *Spittle-houſe* is alſo called *Spoliarium*. Thus much *Seneca* ſeemeth to intimate. *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in ſpoliario, quàm in arena malit?* Whereby it appeareth, that *Spoliarium* was not a priſon, unto which malefactors were judged, but rather as I ſaid a kind of *Spittle-houſe*. Other kind of Puniſhments there were of a neere likeneſſe with Impriſonments, as caſting into the Pillory, laying one by the heeles, *&c.* Of theſe little is ſpoken more then the very names; of this ſort thoſe that doe moſt commonly occur in authors, are theſe; *Nervus, Collumbar, Nimella, Codex. Nervus* is generally thought to reſemble our *Stocks*. *d* Some take it to be made of wood, others of iron, *e Nervum appellamus ferreum vinculum, quo pedes impedium-*

a Turn. adv. 3. c. 18.

b Plutarch in Galba.

c Sen. ep. 94. De ſpoliario. Vid. Lipſ. ſat. 1. 18.

d Vid. Taubman. in Plau. Aulul. 4. 10.

e Feſt. Vid Lam in Plau. Aulul. 4. 10.

pediuntur: quanquam Plautus eo etiam vinciri cervices ait. Two of the laſt ſeem to have ſome reſemblance with our Pillory: *Collumbar* had its name from *Collum*, becauſe the neck was chiefly pained in this kind of puniſhment. *Numella* was alſo a kind of *Pillory*, being ſo called *quaſi* n *Numella, quod qui eo vinculo conſtricti erant, nuere demiſſoq; capite eſſe cogebantur.* *Codex* was a certain block or *Clog*, ſo tyed unto the Malefactors, that they uſed it as a ſtoole to ſit on: The uſe of this may ſeem to have been onely in private houſes, thereby to keep evill ſervants the cloſer to their work: Of this *Juvenal* ſpeaketh, *Sat.* 2.

n Turneb. adverſ. l 23. c. 21

Horrida quale facet reſidens in codice pellex. o *Turnebus* deſcribeth it thus, *Codex eſt ligneus ſtipes, quem allegati ſervi qui deliquerant trahebant, cuiq; inſidebant vincti.*

o Turneb. ib.

Cap. 6.

CULEUS.

THe Crime which in Latine we call *Parricidium*, is murder practiſed by Father or Mother towards the children, or by the Children towards either of the Parents. It had in old times a larger exception, ſignifying any murder between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his firſt and proper ſignificat ion, denoted a fact ſo unnaturall, that neither *p Solon* nor *Romulus* would determine any Puniſhment againſt ſuch offenders, becauſe they thought none ſo wicked as to commit it, and the prohibition it ſelfe might prove a kinde of irritation to provoke ſome to the commiſſion of the crime, which otherwiſe would never have entred into their hearts: but the wickedneſſe of the after-times, enforced Law-givers to invent a ſharp Puniſhment againſt ſuch unnaturall offences. The Puniſhment decreed againſt Parricides in *q Seneca's* Age, was, that ſuch malefactors ſhould be ſowed up in

p Cic. pro Sext. Reſcio.

q Senec lib. 5 controv. 4. in fine.

in a leatherne sack together with Serpents, and so cast into the Sea; afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dogge. Whence *Juvenal Satyr.* 8.

Cujus supplicio non debuit una parari
Simia, nec serpens unus, nec culeus unus.

a Modestus describeth the manner thereof thus: The Parricide being first whipt with rods untill the blood came, then was he sowed up in this sack called *Culeus*, together with a Dogge, a Cock, a Serpent, and an Ape. *b* They would not cast him naked into the sea, lest the water thereof thereby might be polluted, wherewith all other pollutions in their opinion, were expiated.

a Digest. lib. 48. ad legem Pomp. de parric. vid. Cœl. Rhod. lib. 11. cap. 21.
b Cic. pro Sext. Rosc.

CAP. 7.

Eculeus, Lamina, Ungulæ, Fidiculæ, χονισμος.

E*Culeus* had its derivation from *Equus, quasi Equuleus*, as may be collected from that description which *c Turnebus* giveth: But not so much from the positure or situation of the offenders body on the Engine, as *Turnebus* would have it, for he in no wise resembled a man on horseback, but rather from the horsing or hoising up of the party fastned with ropes unto the *Equuleus*, so that his hands being tied fast at the upper part of the Engine, and his feet at the neather part, he was hoised up in the aire like unto one fastned on a Crosse. The form of the *Equuleus* I conceive thus, It was not one entire stake, but rather two long pieces of timber joyned together in forme of a stake, joyned together, I say, by the means of a vice or scrue; and the reason hereof was, that by help of this scrue, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the easing & remiting of his pains, as should seem good to the executioner, or other Officers, who

c Turneb. advers. l. 4. c. 3.

who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution, the maine end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of puniſhment, but to enforce him unto a confeſſion by an augmentation of his paine, they did often with hot plates and iron pinſers, burne and teare his fleſh from his ſides; and all this we ſhall find warranted by *d Sigonius*, whoſe words I have written downe at large, *Eculeus cataſta fuit lignea, cochleata, ad intendendum ac remittendum apta, atq; ad torquendos homines ut facti veritas eliceretur inſtituta. Tormenti vero genus erat hujuſmodi, ubi cataſtæ huic brachia pedeſq; ejus, qui torquendus erat, nervis quibuſdam, quæ fidiculæ dicebantur alligaverant, tum cataſta intenta atq; in altum erecta, ut ex ea quaſi ex cruce quadam miſe ille penderet, primùm compagem ipſam oſſium illius divellebant, deinde candentibus ejuſdem corpori laminis admotis, atq; biſulcis ungulis ferreis lateribus laniatis doloris acerbitatem agebant.* And thus we ſee what the uſe of thoſe *Laminæ* and *Ungulæ* were, namely that they were not ſeverall torments of themſelves, but adjuncts to this, to encreaſe the paine. The *Eculeus* was ſometimes called *e lignum tortorium*: ſometimes *f ſtipes noxiales*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* ſignifieth the ſtring of any muſicall inſtrument, and the Engine had its name from the ſtrings and cords wherewith men were tortured upon it; of this *g Turnebus* writeth, *Fidiculæ quæ in tormentis numerantur, mihi videntur laſciviâ quadam joci nomen inveniſſe, quod ut in fidibus nervi item quoq; ut nervi hinc & inde multis funibus homines diſtendebantur.* The torment χοντιμος uſed by the *Grecians*, was either this ſame or very like.

d Sig. de jud. l. 3. c. 18.

e Sozom. hiſt. Eccl. l. 5.

f Prudent. in hymno. Vincent Martyr.

g Turneb. adverſ. l. 4. c. 3.

Cap. 8.

De rupe Tarpeia dejectio. De lapide empti. A furcâ redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in ludum, ad beſtias.

MAlefactors for notorious offences were tumbled downe headlong from a certain rock in the *Tarpeian* Mount: This kinde of puniſhment was called either ſimply *Dejectio è ſaxo*, or *Dejectio è Tarpeia rupe*. In ſome caſes notwithſtanding by the interceſſion of friends, or ſome other means, Pardons were ſometimes obtained for the condemned perſons, whereby they were freed from death, howſoever the diſgrace and infamy cleaved ever after unto them, and therefore they were tearmed *De lapide empti*: which phraſe *h Cælius Rhodiginus* hath paralleld with that, *â furcâ redempti*, that is, *Saved from the Gallowes*. In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*, certain ſtaires whither condemned perſons were dragged, and ſo caſt headlong into the river *Tiber*. *Cælius Rhodiginus* ſeemeth to be of another opinion: *i* who deſcribing this puniſhment, ſaith that a hook was thruſt into the malefactors throat, and ſo he haled by the Executioner unto theſe ſtayers, where having his thighs broken he was burnt. Furthermore he addeth, that they were called *Scalæ Gemoniæ*, or *gradus Gemonii*, becauſe as ſome are of opinion, the firſt that ſuffered this kinde of Puniſhment, his name was *Gemonius*: or as others would have it, becauſe it was *locus gemitûs, & calamitatum*. If we admit that malefactors were here burnt, then may we think this Puniſhment *ad Scalas Gemonias* to be the ſame, which ſometimes was called *Tunica*. The reaſon of which name was, becauſe perſons thus to be burned, were clad with a Coat dawbed in the inſide with pitch and brimſtone. Thence

h Cœl. Rhod. ant. l. 25. c. 22.

i Cœl. Rhod. l. 10. c. 5.

k Sen. ep. 14. is that of *k Seneca, Cogita illam tunicam alimentis igneam & illitam & intextam.* This giveth light to that of *Juv. Sat.* 8.

Tunicâ punire moleſtâ.

l Tertul: ad Martyr. *l Tertullian* alſo mentioneth it in this ſenſe. To theſe may be added two other Puniſhments uſually inflicted upon fugitive ſervants, but yet not ſo reſtrained unto them, as that they were not ſometimes extended to other malefactors. The firſt is *Damnatio in gladium*, A condemning one into a Fence-ſchoole, there to be trained up in the Art of Fencing, untill ſome publike prizes were plaid, at which time ſuch a condemned perſon was to fight for his life. *m Capitolinus* calleth it *Ad gladii ludum deputationem:* But *Ulpian*, as *n Lipſius* elſewhere obſerveth, differenceth theſe two phraſes thus: He that was *ad gladium damnatus*, was either preſently put to death, or elſe at fartheſt within the compaſſe of an year: but he that was *damnatus in ludum*, had not death ſo peremptorily ſentenced upon him; if he eſcaped the danger of thoſe publike prizes, and alwayes got the upper hand of his adverſaries, at three yeares end he received the *Rudem*, or wand, which was a token of diſcharge from thoſe bloody Combates; yea, at five years end, he received the *Pileum*, or Cap, which was a token of his enfranchiſement, or freedome in the City. The ſecond ſort was *Damnatio ad beſtias*, a condemning of a man to fight for his life with Beaſts, as with Bears, Leopards, Lyons, *&c.* The perſons thus condemned were termed *o Beſtiarii.* A memorable example thereof we have in a certaine *Roman* ſervant called *Androclus*, *p* who having run from his maſter, lived in a wilderneſſe, and whiles he reſted himſelfe in a den, there came a fierce Lyon unto him, moaning and grieving becauſe of the ſtump of a Tree which ſtuck faſt in his foot; *Androclus* at firſt began to be affrighted, but the Lyon coming neerer and neerer unto him, and laying his foot on the mans lap, intimated his deſire of help from him, which when the man perceived, he plucked out the ſtump, and gave him what eaſe he could. Afterward this fugitive being apprehended

m Vid. Lipſ. Satur. l. 2 c. 3

n Lipſ. Satur. l. 2. c. 23.

o Alex. ab Alex. l. 3 c. 5.

p A. Gel. l. 5. cap. 14.

hended and adjudged to this punishment, it hapned that this very Lyon was brought into a shew-place for *Androclus* to fight with, where insteed of a fierce onset, the Lyon used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lyon, they released the servant and freed him from his punishment. Where we must note, that this Pardon was extraordinary: *q* for usually if any so condemned happened to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others untill he were killed. Yea, it was very seldome that the man could prevaile against the Beast, on the contrary, one Lyon hath prevailed against two hundred men, according to that, *r Praeclara aedilitas, unus Leo ducenti bestiarii.* By which we see many men one after another did thus fight with beasts at the same meeting: yea the *s Grecians* called such as succeeded the first Combatants ἐπείσους, the Apostle S. *Paul* calleth them ὀψίτους, because they were reserved untill the last. *u Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by παραστησαι τῷ θεῷ, but the very spectacle or shew it selfe, and what by ἀπόδειξιν, which signifieth properly *Ostendit*, but an allusion to him who was the chief author and exhibiter of these bloody spectacles unto the people. * *Lipsius* hath parallel'd that phrase of *Tully*, *Ostendere munus*, with that of *Suetonius*, *proponere munus*; both signifying the setting forth or bestowing the sight of such masteries, and fightings. And that it was no unusuall kinde of Martyrdome in times of the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoyced to be grownd between the teeth of wild beasts, that he might be found pure bread: Whose words were, *x Frumentum sum Christi, & per dentes bestiarum molor, ut mundus panis Dei inveniar:* yea the word ἐπιθανάτιος, *morti addictos*, helpeth this Interpretation: The word intimateth that there

q Salmuth in Pancirol. de veter. ludis.

r Cic. in orat. pro Sestio.

s Vid in voce Ἐπίσεις.

t 1 Cor. 4. 9.

u Tertul. l. de pudicit.

* Lipf. Satur. lib. 2. cap. 18.

x Iren. adv. her. l. 5. c. 28. Et Euseb. hist. Eccl. 3. c. 33.

was a ſure death remained for them alſo, though the laſt. The cuſtome being in the morning to commit men with beaſts, but thoſe ἐς χαὶ which remained till noon-tide, and were therefore called *Meridiani*, were committed each againſt other, and that without any defenſive weapons, with ſwords in one hand cutting, and with the other hand being empty, graſping and tearing each others fleſh, ſo that *Seneca* ſpeaking of this, comparing it with that former fighting with Beaſts, ſaith, *Quicquid ante pugnatum eſt, miſericordia fuit.*

y Suet. Claud. c. 34.

z Senec ep. 7.

Cap. 9.

Ergaſtulum. Ergaſtula inſcripta, Piſtrinum. Damnari in Antliam. Metallum. Inſcripti. Stigmatici. Literati. Virgæ. Flagella. Talia.

THe ſtate and condition of ſervants was various and differing among the *Romans* in old time, but of all they were moſt miſerable who lived in priſon. Whence thoſe that were ordinarily imployed in theſe priſon ſervices, they were either ſuch ſervants as were bought for that purpoſe, or ſuch as for notorious crimes were adjudged thereunto in way of puniſhment, whence the word *Ergaſtulum* is juſtly derived from the Greek Ἐργάζομαι becauſe it is τίτος ἐν ᾧ οἱ δεσμῶ) Ἐργάζον) : *locus in quo vincti operantur.* For even in the day time when they were ſent forth to work, they had ſhackles and bolts about their legs to prevent their ſcapes or running away, though not ſo big as thoſe into which they were caſt at night when they returned into priſon. Their fetters or bolts are oftentimes in ancient writers) peradventure from the form of their links) termed *Anxuli*, and themſelves ſaid to have *pedes Annulatos.* They had alſo their foreheads marked or burned with ſome letters of infamy, which is the reaſon of *Juvenals* Epitheton, *In ſcripta Ergaſtula.*

Quem

Quem mirè adficiunt inſcripta Ergaſtula. The labours in which they were imployed, were, ſometimes digging, delving, and tilling the ground: ſometimes digging of quarry pits, ſometimes grinding with an Hand-mill, ſometimes drawing water: This latter kinde of puniſhment in *m Suetonius* his phraſe is *Antliam damnari.* Thoſe Criticks who for the word *Antlia* doe ſubſtitute *Anticyra,* or *Andia,* or ſuch like names of Iſlands, doe utterly faile of the Authors ſcope, and drift; for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or unuſuall puniſhment: now ſeeing that Senatours themſelves were often exiled, it could not ſeeme ſtrange that *Roman* Knights ſhould be baniſhed into forraigne lands; but this was a matter unuſuall, and unheard of, that a *Roman* Knight ſhould be imployed in ſuch drudgeries. Againe, the word *Antlia* fitly denoteth ſuch a kinde of labour, whether we reſpect its Etymologie ἀπὸ τοῦ ἀντλεῖν; or its ſignification in Latine Authors, it being uſed by them to ſignifie a great bucket or water-ſcoupe to draw up water.

m Suet. Tiber. cap. 51.

Thus *Martial.* *Curta laboratas antlia tollit aquas.*

The hand-mill is often expreſſed by the latine word *piſtrinum,* a word frequent in Comicall Authors. It much reſembled our *Bride-well,* or place of correction, being called *piſtrinum a pinſendo,* from pounding. For before the uſe of mills was knowne, the *Romans* did pound their corn in a great morter, calling the place where they pounded it *piſtrinum:* whereupon our handmill hath retained the ſame name to this day. And becauſe of the great paines that men did ſuffer in pounding, as likewiſe the ſtrict diſcipline uſed towards ſervants thus puniſhed (for *n* their neck was thruſt into a certaine wooden Engine called *Pauſi cape,* made for the purpoſe, leſt happily in time of grinding they might eat of the meale) hence grew cuſtome among them, that when a ſervant had offended his maſter, he would menace him in this manner, *In piſtrinum te dedam,* I will caſt thee into *Bride-well.* The puniſhment *Metallum* was not much unlike the digging in met-

n Turn. adv. l. 4. cap. 13.

tall-mines, and working in metall houſes, appeareth not only to have been a baſe and ſervile, but alſo a very laborious and painfull work; whence it was eſteemed a grievous puniſhment to be adjudged to metall works; or caſt into a metall houſe. And either for the increaſe of ſuch mens paines, or for to keep them from eſcapes, they were enforced to worke with their fetters and gives about them, as is implyed by *o Ulpian*, who makes the difference betweene theſe two phraſes, *Damnari in metallum*, and *Damnari in opus metalli*, to be thus; that the firſt ſort did weare heavier and greater fetters then the laſt. How true the difference is I leave it to the enquiry of others, but that it was a great and infamous puniſhment *p Tertullian* witneſſeth, in that ſpeech of his againſt the Heathen people, *De veſtris ſemper æſtuat carcer, de veſtris ſemper metalla ſuſpirant*. Sometimes there was only ignominy and diſgrace intended in their puniſhments, of which ſort was the bearing up and downe the *Roman Furca* in the Market place, or elſewhere in publick view, whereof I have ſpoken in the Chapter of *furca*, likewiſe a branding of the Malefactor with ſome infamous letter in his forehead or hand, or ſome other part hf the body: Whence *q Pliny* calleth ſuch ſervants *Inſcriptos*. Generally they are called *Stigmatici*, from στίζω, which ſignifieth to brand with marks; As *Nebulo ſtigmaticus*, a rogue burnt in the hand, or any way marked; ſometimes ſuch are called *Literati*. The *Athenians* being enemies to the *Samii*, as often as they took them captives, they did uſe thus to burne them for Rogues, which occaſioned that Proverbiall ſcomme; *Samiis neminem eſſe literatiorem*.

o Vid. Cœl. Rhodig. l. 10. c. 5.

p Tertul. apolog. c. 44.

q Plin. l. 18. c. 3.

r Cœl Rhod. l. 7. c. 13.

Sometimes beſides the diſgrace there was alſo toileſome paines, as appeared by their *Ergaſtula*, and ſometimes to their paines, ſtripes added: Though I deny not, but that many times, correction with ſtripes was a preparation for death it ſelfe. This correction by ſtripes was two-fold, either it was *Verberatio*, or *Flagellatio*: The firſt was with rods called

Virgæ

Virgæ; the other with ſcourges call d *Flagella*. That there was a difference between *Virga* and *Flagella*, is plaine by *Tully*, where by way of Irony he ſaith, *Porcia lex virgas ab omnium civium corpore amovit; hic miſericors flagella retulit*. Both of them were counted ſervile, ſo that Freemen were ordinarily exempted from them, as appeareth.

m Ad necem operire loris. Sann. loris liber? m Ter. Adelp. act 2. ſcen. 1.

Horace alſo intimating the ſervile condition of *Meva*, ſaith: n Epod. Od.

n Sectus flagellis hic triumvirabilibus.

They are called *Flagella triumviralia*, from thoſe *Triumviri* who formerly I Tranſlated Sheriffs, becauſe to them belonged the overſight of this puniſhment. *Euſtathius* calleth them ἱσραγαλωγας μάστιγας, *id eſt*, *Flagra alaria, ſeu taxillata*, becauſe to augment the paines, they did uſually in theſe ſcourges tye certaine huckle-bones, or Plummets of lead at the end of the whip-cords, or thongs, and ſuch ſcourges they termed *Scorpiones*. The cruelty of the ſcourges was ſuch, that they many times died under them. Thus have we generally and briefly touched the more uſuall Puniſhments. But ſometimes wrongs done between party and party, were puniſhed with a retaliation of the ſame kinde: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of puniſhing was called *Talio*. Yet we are to know that a ſimple retaliation, ſuch as is termed *Talio Pythagorica*, was not alwayes exacted, but ſometimes ſatisfaction might be wrought by a commutation of the Puniſhment. o *Reus habuit facultatem paciſcendi, & non neceſſe habuit pati talionem, niſi eam elegiſſet*. It were endleſſe to ſpeak of all their Puniſhments, and happily not worth the labour, their very names being ſufficient Comments to explain them. As *Effoſſio oculorum, Amputatio manuum, Crurifragium, Talifragium*, and ſuch like.

Tholoſ. in ſyj. jur. univerſ. c. 11. l. 31.

o A. Gel. l. 11 cap. 1.

LIB. III.

SECT. 4.

Of the Romans *Lawes.*

CAP. I.

De Legibus.

HAving ſpoken of the Civil Magiſtrates, and puniſhment, we will now alſo deſcend unto the Civil Law: where firſt we will note among other differences between *Jus* and *Lex* principally theſe. Firſt, *Lex* ſignifieth only the law, but *a Jus* ſignifieth alſo that place, whereſoever the Law of Juſtice was adminiſtred: nor only if it were adminiſtred out of the Tribunal in the *Comitio*, or great Hall of juſtice, which was termed by the Lawyers, *Agere pro Tribunali*: but alſo if it were adminiſtred in a private houſe, or in ones journey, ſo that it were by a lawfull Magiſtrate, and out of a curule chaire; and this was termed by the Lawyers, *Agere de Plano*: and hence is it, that *In jus vocare* ſignifieth to cite one into the Court. 2ly, *Lex* ſignifieth only the written Law, but *Jus* ſignifieth equity, ſo that *b Jus permaneat ſemper nec unquam mutetur, Lex verò ſcripta ſæpius.* Notwithſtanding theſe two words uſed promiſcuouſly one for the other, & therefore leaving all curious differences between thoſe words (whether

a Sig. de jud. c. 7.

b Fr Sylv. in orat. pro Mil.

(whether the *Roman* lawes were truely *Jura* or *Leges*) thus much we may observe, that the lawes used among them were of three sorts; either they were such as were made by several *Roman* Kings, and afterward collected and digested into a method by *Papirius*, [c] from whence it was called *Jus Papirianum*; or they were such as the *Decem viri* brought from *Athens*, and were called *Leges* 12. *tabularum*: or lastly they were such as the *Consuls* the *Tribuni plebis*, and such Magistrates did prefer, whence every several law bore the name of him or them that preferred it. My purpose is to explain only this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his Orations. My proceeding shall be first to shew the divers kindes of Judgements; and then to descend unto the laws themselves, beginning with those which shall concern the *Roman* Religion, and then proceeding to the others which concern the common-wealth.

[c] F. Sylv. in ep. virorum illust. l. 5. ep. 11.

Cap. 2.

De Iure publico & privato.

THe cases to be decided by the law where either publike or private, and accordingly were the judgements [d] *vel privata, in quibus jus suum privatus quisq; persequebatur: vel publica, in quibus injuria quæ reip. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Prætori urbano & peregrino*, that is, the L. chief Justices, who did either give judgement themselves, and then were they said *judicare*, or they did appoint others to sit in judgment, and [e] then were they said *Judicium dare*: in the absence of the *Prætors* there were ten called *decemviri Silitibus judicandis*, i. e. [f] *super lites judicandas*, who in the same manner as the *Prætor*, might either give judgement themselves, or appoint others, for they were even in [g] one place

[d] Sig. de jur. Rom. lib. 2. c. 18.

[e] Sig. de jud. l. 1. c. 7.

[f] Rosin. ant. l. 7. c. 29.

[g] Alex. Gen. dier. l. 1. c. 16.

and inſtead of *Prætors*. Thoſe which either the *Prætor* or the *Decemviri* did appoint to debate the caſes under them, were taken out of the *Centumviri*, that is[b] out of certaine Commiſſioners choſen for that purpoſe, namely three out of every Tribe or ward; ſo that in all, the number of them amounted unto an hundred and five; but in round reckoning they went for an hundred: and from a certain ſpear that was wont to be erected up in token of this court, hence was the court called either *i Prætoria Decemviralis*, or *Centumviralis haſta*. In ſome caſes their forme of acquittance was thus[k] *Secundum illũ litem do*, whence[l] *Tully* ſaith *quo minus ſecundum eos lis detur, non recuſamus*, that is, we do not deny, but they may be acquitted. Thoſe that were caſt in their ſuit, were ſaid *Lite vel cauſa cadere*. The publicke caſes belonged ordinarily (except the *Conſuls*, the Senate, or the people did interpoſe their authority) unto thoſe whom we called *Prætores Quæſitores*. Some have thought them to be the ſame with thoſe whom *m Roſinus* calleth *Judices Quæſtionum*, and that I think not altogether upon unſure grounds: firſt becauſe moſt of theſe publique caſes which they termed *Quæſtiones* had their *n* ſeveral *Prætors* to enquire them, whence they were called *Quæſtores*, & may in my opinion becalled *Judices quæſtionũ*, eſpecially ſeeing that thoſe which would have them be different officers, cannot well ſhew the differences of their offices. Now as the Vrban *Prætor* had a hundred Commiſſioners under him, ſo had theſe *Prætores Quæſitores*, certaine Judges choſen[o] by the Vrbane, or forreigne *Prætor*, when he took his oath: and that not according to his pleaſure as many as he would, or whom he wold, but ſometimes more, ſometimes fewer, ſometimes only out of the *Senators*, ſometimes only out of the order of Roman Gentlemen, ſometimes out of both, ſometimes alſo out of other orders, *p* according as the law appointed, which oftentimes varied in thoſe points. The Judges how great ſoever the number was, *q* were called *Judices ſelecti*, & were divided

b Per. Ramus in 2 m de lege Agr.
i Sig de Iud. l. 1. c. 28.
k Sig. de Iud. l. 1. c 29.
l Cic. pro Quin. Roſc.
m Roſin. ant. l. 2. c. 18.
n Sig. de jud. l. 2. c. 4.
o Sig. de jud. l. 2. c. 6.
p Sig. Ibid.
q Sig de jur. Rom. l. 2. c. 18.

vided into ſeverall companies called *Decuriæ*. Theſe Judges were upon any citation from any of the *Prætors*, to give their aſſiſtance in the Court upon the day appointed by the *Prætor*. Now the manner how they did proceed in their judgement followeth in the expoſition of one of the Laws, and therefore J will refer the Reader thither. Only let him by the way underſtand, that where as *Tully* is quoted in every law, it is not ſo much for the proofe of the law, as to ſignify that he in that place maketh mention thereof. For the proofe of the laws J referre the Reader to *Roſinus* and *Sigonius:* touching the expoſitions, my marginall quotations doe prove ſufficient

Cap. 3.

De legibus religionem ſpectantibus

Lex Papiria.

L. *Papirius Trib. pleb.* eſtabliſhed a law touching the conſecration or hallowing of places that it ſhould be unlawfull for any to conſecrate either houſes, grounds, altars, or any other things, *Injuſſu plebis*, that is, without the determination of the Roman people in their aſſemblies called *Comitia Tributa*, which determination was alwaies termed *plebiſcitum* Cic. pro Domo.

Roſcia lex

L. Roſcius Otho. Trib. pleb: preferred a law, that whereas heretofore the Roman Gentlemen did ſtand promiſcuouſly with the commons at their theatrall ſhewes, now there ſhould be fourteen benches or ſeats built for thoſe Roman Gentlemen which were worth H. S. *quadraginta*, that is, about 3125. *l.* of our Engliſh mony. As for other Gentlemen whoſe ſubſtance was under the rate, they had a certain place allotted them by themſelves with a puniſhment impoſed upon them, if they offered to come into any of thoſe foureteen benches. Cic. Phillip 2. Item. pro Muræn.

Here muſt we note that this character *H.S.* ſtandeth for a ſilver coyn in *Rome* called *Seſtertius*, and is by *Roſinus* in this place improperly uſed for *Seſtertium*, for this Character *H.S.* is by our printers falſe printed, the true character being *L.L.S.* ſignifying *duas libras* (as the two *L.L.* doe intimate) and *ſemiſſem*, which is intimated by the letter *S.* Where if *libra* doth ſignifie no more then the *Romans* coyn called *A S* then is this opinion touching the character *L.L. S.* eaſie to be confirmed. For divers authors [f] rendring a reaſon of the name *Seſtertius*, ſay it was ſo called *quaſi Semitertius*, that is, ſuch a coyn as containeth *Duos ſolidos aſſes & ſemiſſem*. This *Seſtertius*, was ſuch a common coyn among the *Romans*, [t] that *Nummus* and *Seſtertius* became at length one to be uſed for the other; [u] *Mille hujuſmodi ſeſtertii vel nummi faciunt unum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinque coronas*. According to which rate, *quadraginta ſeſtertia* amounteth to 3125. and every particular *ſeſtertius* is according to this rate, in value three halfpence farthing *q*.

r Fr. Matur. in Philipp. 2.

f Chr. Hegendorphius in Verrinam.

t P. Nanus in Verrin. 5.

u Chr. Hegendorphius in Verrin. 5. m.

And here we may fitly obſerve the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt if the numeral or word that denoteth the number be a noun adjective agreeing in caſe, gender, and number with the ſubſtantive *ſeſtertius*, then it ſignifieth preciſely ſo many *ſeſtertii*; for example ſake; *Decem ſeſtertii* do ſignifie ſo many times 1 *ob q*[1] *q*. Secondly if the numeral being an adjective, and of a different caſe, be joyned with *Seſtertium* in the genitive caſe plural, then doth it note ſo many thouſand *Seſtertii*; For example, *Decem ſeſtertium* ſignifieth ten times 7[l] 16[s] 3[o]. Thirdly, if the numeral joyned with *ſeſtertium* be an adverb, then it ſignifieth ſo many hundred thouſand *ſeſtertii*, *ex. gra. Decies ſeſtertium* doe ſignifie ten hundred times 7 16 3[l]. Yea the numeral being an adverb, is ſometimes put ſimply by it ſelf, without the addition of any other word to ſignifie in the ſame manner, the genitive caſe *Seſtertium*

tium being understood. For the better conceiving hereof the former example may be thus set down.

Decẽ sestertij.		10. *Sestertios.*		0000. 10. 6. *ob q*ª,
Decem sester-		10. *Millia se-*		0078. 02. 6. 0. 0.
tium.	*valent*	*stertium.*	*De nostro*	
Decies sester-		10. *Centena.*		
tium.		*Millia*		78112 10 0 0 0.
Decies.		*sestertium,*		

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Priest called *Pessinuntius sacerdos* (from the place where he did first exercise those holy rites in the honour of the mother Goddesse) should be deprived of his Priesthood, and the temple built in the honour of this Goddesse should be bestowed upon *Brotigarus*, of *Gallo Grecia.* Cic. pro Sext. item de Aruſp. respon.

Domitia lex.

Cn. Domitius Abenobardus Trib. Pleb. enacted a law, that the Colledges of Priests should not as they were wont, admit whom they would into the order of Priesthood, but it should be in the power of the people. And because it was contrary to their religion, that Church-dignities should be bestowed by the common people, hence did he ordain that the lesser part of the people, namely seventeen Tribes should elect whom they thought fit, and afterward he should have his confirmation or admission from the Colledge. Cic. Agrar.

Lex incerti nominis de vocatione sacerdatum.

Cicero in his orations mentioneth a law (not naming the author thereof) whereby the Priests were priviledged from their service in all wars, except only in uproars or civil tumults, and these priviledges were termed *Vacationes.* Cic. Phillip. 2 & pro Font. x B. Latomus in Philip. 5.

Cap. 4.

De civitate & jure civium Rom.

Forcia lex de civitate.

Cic. pro R. b. & ſæpe alias.

Forcius Trib. Pleb. eſtabliſhed a law that no Magiſtrate ſhould beat any Roman Citizen with rods.

Lex Sempronia.

Cic. pro Cluentio, & ſæpe alias.

C. Sempronius Gracchus Trib. plcb. preferred a law whereby he diſabled the Magiſtrate from puniſhing any Romane Citizen either with rods or with his ax, that is, with death without the allowance of the people: Secondly, by vertue of this law, if any Magiſtrate did condemn any Roman Citizen *Indicta cauſa* he ſhould be liable to the judgment and cenſure of the people. A third clauſe to this law was, *Ne quis coiret, conveniret, quo quis judicio publico circumveniretur Indicta cauſa.* He was ſaid to be condemned *cauſa indicta*, which was condemned before he had ſpoken for himſelf.

y P. Ramus in orat. pro Rabir o

z Fr. Sylv. in orat. pro Cluentio.

a I. Camerar. in orar. Cic. pro L. Flacco

b Fr. Sylv. in orat. pro Cluentio.

C. pro Balb.

Although *y Indicere pao non dicere, ſicut & invidere pro non videre vix reperiatur, tamen indictum & inviſum, pro non dicto & non viſo ſæpe reperiuntur.* *z* They were properly ſaid *Coire*, which did work under-hand againſt a man, that he might be condemned; we may tranſlate it in this place, to Conſpire. *a* The verb *Circumvenio* doth commonly ſignifie as much as *Circumſcribo*, to deceive or cheat one: but in this place to oppreſſe one with falſe judgement, procured by bribery or conſpiracy.

Lex papia de peregrinis

The priviledges of the Roman Citizens became ſo great, that almoſt all the inhabitants of the confederate nations, would forſake their owne dwelling, and uſe meanes to become free deniſons in the Roman City; inſomuch that the Embaſſadours of the Allies, and aſſociates, did grieve much and

and complain of the loſſe of their inhabitants: whereupon a law was made by *Papius*, that all forreigners and ſtrange commers ſhould be expelled out of the City. To the ſame effect was *Lex Junia* and alſo *Licinia Mutia de peregrinis*: the firſt being preferred by *Mar: Junius Pennus*; the ſecond by *L. Licinius Craſſus*, and *Q. Mutius Scævola.* Cic. offic. l. 3.

Servilia lex de civitate

C. Servilius Glaucia preferred a law, *Ut ſi quis Latinus*, if any of the Latine aſſociates could prove an action of bribery againſt a Senatour, then ſhould he be made a freeman of the City Cic. pro Balb.

Quis Latinus.] Here we will obſerve with [e] *Sigonius*, that the Latine people were not alwayes called *Latini*, & *Italici: ſed & ſocij & Latini & ſocij nominis Latini & ſocij nomenq; Latinum & ſocij ab nomine Latino, & ſocij ac Latinum dicti ſunt* e Sig. de jr. Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis.

Sylvanus & Carbo being *Tribuni pl.* preferred a law, *Ut qui fœderatis civitatibus adſcripti eſſent ſi tum, cum lex ferebatur, in Italia domicilium habuiſſent, ac ſexaginta diebus apud Prætorem profeſſi eſſent. cives Romani eſſent.* Cic pro Archia.

Adſcripti] For the right underſtanding hereof we muſt note that there were [d] two ſorts of Citizens; ſome *cives nati*, that is, Citizens by birth, others *civitate donati*, that is Citizens by donation, or gift: who becauſe they were added unto, and regiſtred with the firſt ſort of Citizens, were thence called *Adſcripti cives.* d Fr. Sylv. in orat. pro lege Manil.

Profeſſi apud Prætorem.] This verb *profiteri* is ſometimes [e] *Comitiale verbum*, anb ſignifieth as much as *profiteri nomen*, that is to render ones name unto a Magiſtrate; and this conſtruction it beareth in this place. e P. Ramus in orat. Cic. Agr. 2.

Lex Cornelia de Municipiis.

L. Cornelius Sylla preferred a law, that all *Municipall* States ſhould loſe their freedom in the *Roman* city, and alſo their priviledge of having commons in the Roman field. Cic. pro Domo.

Gellia

Gellia Cornelia lex.

L. Gellius Publicola, and *Cn. Cornelius Lentulus* being *Consuls*, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisedome should bestow the freedom of the Roman Citizens, should ever be accounted free Denisons.

Cic. pro Balb.

Cap. 5.

De legibus ad comitia spectantibus.

Ælia lex.

Cic. multis in locis.

Q. *Ælius Petus* asked a law in time of his Consulship, *ut quoties cum populo ageretur*, that is, as often as any Roman Magistrate did assemble the people to give their voices, the *Augures* should observe signes and tokens in the firmament, and the Magistrate should have power *obnunciandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

Ageretur cum populo.] Here we may note the difference between these two phrases, *Agere cum populo* and *agere ad populum*; [f] He was said *Agere ad populum* whosoever made any speech or Oration unto the people, and this might bee done upon any day indifferently. But then onely was it said *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done [g] but upon one of those dayes which they called *Dies Comitiales*.

f Agel. l. 13. cap 14.

g Bertram. de verder. ration. ad finem. Ovid. Fast. Cic. in Sull. orat. sæp.

Fusia lex.

Pub. Furius sive Fusius Philus, being *Consul*, ordained a law, that upon certain dayes, although they were *dies Fasti*, that is, Leet-dayes, yet no Magistrate should summon an assembly.

Clini-

Clodia lex.

P. Clodius Trib. Pl. abrogated both thoſe former lawes, making it unlawful to obſerve ſignes and tokens in the heavens, upon thoſe daies when the Roman people were to be aſſembled: And ſecondly, making it lawful to aſſemble the people upon any Leet-day whatſoever. Cic. pro Sext.

Gabinia lex.

At firſt, for many yeares the Roman people in their aſſemblies did ſuffrage *Vivâ voce*: at which time many of the inferiour ſort gave their voices contrary to their wills, fearing the diſpleaſure of thoſe that were of higher place. For the better help in this point *Gabinius* asked a law, that the people in all their elections might not ſuffrage *Vivâ voce*, but by giving up certain tablets, the manner whereof hath been formerly ſhewn: whence both this, and all other lawes tending to this purpoſe have been called, *Leges tabellariæ*. Cic. 3. de leg.

Caſſia lex.

After *Gabinius*, *Caſſius* alſo preferred a law, that both the Judges in their judgments, and the people in their aſſemblies ſhould ſuffrage by rendring ſuch tablets: *b* but this is to be underſtood onely of thoſe aſſemblies by wards called *Comitia Tributa*: wherein they treated of mulcts and mercements. Cic. in Lælio.

b Roſin. ant. l. 8. c. 3.

Cælia lex.

Cælius Trib. Pl. eſtabliſhed a law, that not only in mulcts and mercements, but alſo *In perduellionis judicio*, that is, in taintments of treaſon againſt any perſon of State, (namely ſuch as were *ſacro ſancti*) or againſt the common-weale, this *Tabellary* liberty ſhould have place, when the people ſhould judge thereof. Cic. 3. de leg.

In perduellionis jud.] *i* This word *perduellis* doth ſignifie an enemy unto the ſtate, a traitour; and hence cometh this word *perduellio*, ſignifying not only the crime of treaſon, but the puniſhment alſo due thereunto, *k* *Si crimen quod erat gra-*

i Cælius Sec. Cario in orat. pro Milone.

k Sig. l. de jud. lib. 3. c. 3.

viſſimum inter crimina, nempe imminuta majeſtatis: ſi pœna, quæ erat acerbiſſima, nempe mortis.

Cic. de leg. 3.

Papiria lex.

C. Papiria Carbo Trib. Pl. perſwaded that not only in their elections, but in the propoſal of their lawes alſo, this ſuffraging by tablets ſhould be uſed.

Sempronia lex.

Cic. multis in locis.

C. Sempronius Gracchus Trib. Pleb. preferred a law, that the Aſſociates of *Latium* ſhould have as great right of ſuffraging, as the Roman Citizens.

Manilia lex.

Cic. pro Mur.

C. Manilius Trib. Pleb. preferred a law, that all thoſe who were *Libertini*, in what Tribe or Ward ſoever, ſhould have the right of ſuffraging.

Cap. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verrin. 7.

Q. *Claudius Trib. Pleb.* perſwaded a law, that no Senatour or Senatours father, ſhould have any ſhip, which ſhould containe above three hundred of thoſe meaſures called *Amphoræ*, deeming that ſufficient for the tranſportation of their corn from the Roman field. Secondly, by this law the Senatours were forbidden the uſe of trading.

1 Alex. Gen. dier. l. 2. c. 20.

Amphora] 1 *Alexander Neopolit.* obſerveth two ſorts of theſe meaſures, namely *Amphora Italica*, containing two *Vrnas*, and *Amphora Attica*, containing three *Vrnas*: every *Vrna* contained two gallons and a Pottle. This in probability is underſtood of the *Italian Amphora*.

Tullia lex.

Cic. Philip. 1.

When as a cuſtom had grown, that many of the Senators having by ſpecial favour obtained *Liberam legationum*, upon

upon all occaſions would abuſe that their authority, procuring thereby their private gaine, and the encreaſe of their own honour, then *M. Tullius Cic.* being Conſul, laboured quite to take away theſe kinds of embaſſages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (not through a mans whole life) taken from him again: yet afterward this authority ſhould never be granted to any, longer then the ſpace of one year.

Legatio Libera] We may obſerve in ancient Authours three ſeveral kinds of embaſſages: The one, which is a meſſage ſent from the Prince or chief Governours of one country unto another, & that is expreſſed commonly by this one word *Legatio*, without any addition thereunto; ſomtimes it is called *Legatio mandata*. The ſecond, which is when one purchaſeth the title of an Embaſſadour, thereby the more honourably to perform ſome vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embaſſadour, granted upon ſpecial favour unto a Senator, that he might with the greater authority proſecute his private ſuits in law, or gather up his debts in that Province whither he went; this laſt was termed *Legatio Liberâ*. All three ſorts are briefly touched by *m Toxita*. m M. Toxita in orat. Phil. 1.

Cap. 7.

De Magiſtratibus.

L. *Cornelius Sylla*, being *Dictator*, made a law, that all ſuch as would follow him in the civil warre, ſhould be capable of any office or magiſtracy before they came unto their full years. A ſecond part of this law was, that the children of ſuch as were *proſcripti*, ſhould be made uncapable of the Roman Magiſtracies. Cic. in Pſoni

Before they came to their full age.] For *L. Villius* preferred a law, whereby he made such as were under age, to be uncapable of the city preferments, and those he accounted under age, who had not attained unto that number of yeares which he had prescribed each severall office : *n* and this law was termed *lex annalis*.

n P. Ramus in Agrar. 2. *Proscripti* were such persons as were banished. For the fuller understanding, look Proscription in the Tract of punishments. *Julius Cæsar* did contrary to this law, *Admissit ad honores & proscriptorum liberos, Sueton. Iul.* 41.

Hircia lex.

Cic. Phil. 13.] *A. Hircius* made a law, that all those that followed *Pompey*, should be made uncapable of all places of office.

Cornelia lex.

Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the Lord chief Iustices not to give sentence alwaies according to equity, yea sometimes to go quite contrary to their own Edict, made a law, that every L. chief Justice should administer justice according to that his first Edict hanged up at the beginning of his office. And addition unto this law was, that the L. chief Justice should not be absent out of the City above ten daies.

Clodia lex.

Cic. pro Sext. In former times it was lawfull for either of the Censors to censure whom he pleased, and how he pleased, except his fellow Censors did plainly gain-say it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. Pleb.* made a law, that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*,

rex, in the vacancy of the Conſuls, preferred a law, that *L. Cornelius Sylla* ſhould be a perpetuall Dictator.

Cornelia lex.

Cic. 3. de leg.

L. Cornelius Sylla in the time of his Dictatorſhip, did by vertue of a law preferred by him, clip the authority of the *Tribuni Pl.* diſabling them of bearing any office after the expiration of their Tribuneſhip, taking away their authority of preferring laws, of uſing any ſolemn ſpeech, or publick oration unto the people, of hearing appeals, of hindring any ſtatute, or decree tending to the hurt of populacy.

Cap. 8.

De Legibus.

Cœlicia Didia lex.

Q. Cœlius Metallus, & Titus Didius being Conſuls, forbad that *Unâ rogatione*, that is, in one and the ſame bill many things ſhould be propoſed unto the people; leſt by that means, the people by granting the whole bill, might grant ſomething which they would not, or in denying the whole bill, might deny ſome particular clauſe, which by it ſelf they would have accepted. Moreover theſe two *Conſuls* ordained, that before a law ſhould be asked in the aſſemblies, it ſhould be promulged, that is, hanged up to the publick view of the people three market daies.

Cic. pro dom. ſua ad pontif.

Iunia Lacinia lex de trinundino.

Cic. Philip. 5.

Iunius Silanus, and *L. Licinius Muræna* being Conſuls, eſtabliſhed that law of *Cœcilius* and *Didius*, annexing a more ſevere Puniſhment for the breakers thereof.

Clodia lex de interceſſione.

Cic. pro Sext.

P. Clodius Trib. Pleb. made a law, that the *Trib. Pleb.* ſhould have full authority and power to propoſe lawes; neither ſhould they be hindred by the *Interceſſion*, that is, gain-ſaying of any.

Cic. pro domo suo ad Pontif.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. Pleb.* ordained that if any preferred a law touching the oversight, the charge, or cure of any business in hand; neither he, nor any fellow officer with him, nor any allied unto him, should have this oversight, or charge committed to him.

Cap. 9.

De Provinciis.

Sempronia de Provinciis.

Cic. de prov. consularibus.

C. *Sempronius Gracchus Trib. Pleb.* ordained, that the Senate every yeare before the election of their *Consuls*, should as it seemed best to them, appoint out what provinces the Consuls now to be elected, should after the expiration of their office go unto; for which Provinces afterward the Consuls designed should cast lots. Another clause to this law was, that whereas in former times by a decree from the Senate, it was lawfull for the *Tribunes* to hinder the Roman assemblies, henceforward they should have no authority.

Cic. ep. 9 ad Lentul.

Cornelia de Provinciis.

L. Cornelius Sylla being Dictator, preferred a law, that whosoever went into a Province *cum imperio, tamdiu illud imperium retineret, quod in urbem reversus esset*: whereas in former times his rule and government was to be resigned at the expiration of a set time appointed: yea although no successour were sent, yet could he not continue there *cum imperio* without a new commission. A clause added unto this law was, that after the coming of any new President or Governour into the Province, the old Provincial President should depart within thirty daies.

p Sig. de jure Prov. l. 3. c. 13. q Sig. ejusd. lib. cap. 6.

Esse cum imperio,] that is, p *exercitui praeesse,* q *vel habere jus administrandi, & suis auspiciis gerendi belli.*

Titia

Titia lex de Provincia.

Titius or (as some say) *Decius*, preferred a law, that the Provinciall Treasurers called *Questores*, should cast lots for their Provinces: whence *Tully* in the Oration now quoted inferreth, that although *Ostia* being the better Province fell upon *Servius Sulpitius*, yet in as much as it fell *Lege Titiâ*, that is, by casting lots, he could not therefore challenge any superiority above *L. Muræna, sed utriusq; nomen consedit in Questurâ*, that is, their fame and renown was equall in their *Questorship*. Cic. pro L. Muræn. r Melancth. in Orat pro Muræna.

Julia lex de Provinciis.

C. Julius Cæsar established two laws touching the *Roman* Provinces: one that no *Prætor* should govern a province above twelve months; nor *Proconsul* above two yeare. The several heads or clauses of his second law could not all bee found out, but those which have come to light are these. First that *Achaia, Thessalia*, and all *Græcia* should be free; neither should any *Roman* Magistrate sit in judgement in those Provinces, (*Cic. pro domo.*) Secondly, that the Provincial governours and their *Comites*, that is, assistants or attendants, should have hay, and all other necessaries provided them on the way, by those Towns and Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a book of their accounts in two Cities of their Province, and likewise should send a copy of their accounts unto the *Roman* Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a triumph, (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate without the alowance of the People or the Senate, to depart out of their Province, to lead forth any army, to wage war, or to go into any forraigne countrey. (*Cic. in Pison.*) Cic. Phil. 1.

Aurum Coron.] ſ There was a custome among the *Romans* in ſ Lips. de mag. Rom. l. 2. c 9.

in times of victory to preſent unto the L. Generall Coronets of Gold, inſtead whereof the after-ages preſented a certaine ſumme of mony, which was thence called *Aurum coronarium.*

Vatinia de Provinciis.

Cic. pro Balb. *P. Vatinius Trib. Pleb.* procured a law, that *Iulius Cæſar* ſhould have the government of *Gallia Ciſalpina* & *Illyricum* for five yeares ſpace, without any decree from the Senate, or caſting lots. Secondly, that they alſo ſhould go as Legates, or L. Deputies unto *Cæſar*, without any decree from the Senate whoſoever were nominated in that law. Thirdly, that *Cæſar* ſhould receive money out of the common Treaſure-houſe towards having an Army. Laſtly, that he ſhould tranſplant a Colony unto a certain town of *Ciſalpina Gallia*, called *Novocomum.*

Clodia de Provinciis.

Cic. pro Domo. *P. Clodius* being *Trib. Pleb.* procured a law, that the government of *Syria, Babylon*, and *Perſia*, ſhould be committed to *Gabinius*, the government of *Macedonia, Achaia, Theſſalia, Græcia*, and all *Bœtia* ſhould be committed unto *Piſo*; and they ſhould receive together with an army, money out of the common Treaſury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another law, that the Iſland *Cyprus* ſhould be made a Province. That *Ptolomæus* the King of *Cyprus* ſitting in his purple, with his ſcepter & other his princely ornaments, *Præconio publico ſubjiceretur, & cum bonis omnibus publicaretur*, that is, ſhould himſelf with all his goods be ſold by a common cryer. That *M. Cato* being then Treaſurer, *cum jure Prætorio, adjecto etiam Quæſore*, having by commiſſion the office of a Chief Juſtice, and another Treaſurer to accompany him, ſhould be ſent unto the Iſland *Cyprus*, both to make ſale of the Kings goods and eſtate, and alſo to bring back the money. Laſtly, it was decreed by this law, that thoſe who lived in exilement at *Byzantium*, being condemned

condemned for ſome capitall crime, ſhould be brought back unto the city under the name of Romans.

Præconi publico ſubjiceretur:] For the better underſtanding of that phraſe, we are to underſtand the manner of port-ſale among the Romans; which we may read in *Sigonius* thus. Thoſe things were rightly ſold in portſale, which were publiquely ſold *per Præconem ſub haſta*, that is, by the cryer under a ſpeare ſticked up for that purpoſe, and ſome Magiſtrate making good the ſale by delivery of the goods. Whence I take *publico præconi ſubjici*, and *haſtæ ſubjici*, to ſignifie one and the ſelf-ſame thing, namely, to be ſet at ſale: and *s Cicero* uſeth almoſt the ſelf-ſame phraſe, *bona C. Pompeii, voci acerbiſſimæ ſubjecta præconis.* This kind of ſale was termed *Auctio*: becauſe, as *Sigonius* ſaith in the ſame place, to him the goods were ſold, *Qui plurimùm rem augeret*, that is, which would bid moſt for it: and hence is the ſeller thereof termed *Auctor*, as *u Cic. Id quod à malo auctore emiſſent*, that is, that which they had bought of one, which had no authority to ſell: and from this cuſtome of ſetting up a ſpeare in this kind of ſale, this word *Haſta* alone is uſed, to ſignifie port-ſale, as *x Haſta Cæſaris*, the ſale of *Cæſars* goods. Thoſe who bought theſe goods *y Tully* calleth *Sectores*, *z quia ſpem lucri ſui ſectabantur.* In ſuch kind of ſales, a catalogue, or note of the goods to be ſold was hanged up in tables, for the publique view of paſſengers. Whence ſuch goods were termed *ſuſpenſa bona.* And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bands and ſecurity to anſwer the matter. The phraſe is uſed by *Tully Cic. pro Quintio.* And alſo by *Seneca de benef. lib.* 4. *cap.* 12. *Suſpenſis amici bonis libellum dejicio, creditoribus ejus me obligaturus.* It is thus explained by *Turnebus adv. lib.* 12. *cap.* 9. If the ſale proceeded on, then ſuch as propoſed to be chapmen ſignified their deſire by holding up their finger: whence *Digitum tollere* ſignifieth the deſire of buying ſuch goods. *Alex. ab Alex. lib.* 4. *cap.* 26.

s Cic. Phil. 11.

u Verrin. 5.

x Cic. Phil. 3.

y Cic. in Ver.

z Cic. de jud. lib. 2. c. 24.

Cap. 10.

De Legibus Agrariis.

THoſe lawes were termed *Leges Agrariæ*, which did concerne the diviſion of the publick, or common fields: And theſe were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made incloſures; or laſtly bought out of the common Treaſury, a *Vide Sigon.*

a Sig. de jur. ital. li. 2. c. 2.

Sempronia lex Agraria.

b *Titus Sempronius Gracchus Trib. Pleb.* preferred a law, which forbad that any of the *Romans* ſhould have to his own part above five hundred acres of the common fields, the one halfe of which it was lawfull for his ſonne to enjoy. If it had ſo happened that any ſhould enlarge theſe common fields, three ſurveyers called the c *Triumviri agro dividendo*, did marke out which was common, which private ground. Moreover it was by this law provided, that the money of King *Attalus*, who made the people of *Rome* his heire, might be beſtowed upon thoſe citizens, which had by this law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreover that the Kings lands ſhould be farmed out at a ſet rent by the *Cenſors*, whence an yearely tribute ſhould be paid to the people.

b Cic. pro Sext.

c Sic. d. jur. ital. li. 2. c. 2.

Cornelia lex.

L. Cornelius Sylla being Dictator, preferred a law, that all the fields of thoſe *Romans* which he had baniſhed ſhould be common. This publication is to be underſtood chiefly of thoſe fields in *Thuſcia*, neare unto the city *Volater*, and the city *Feſula*, which grounds *Sylla* divided amongſt his ſouldiers.

Cic. in Rul.

Cap.

Cap. II.

De frumentariis Legibus.

Sempronia Lex.

T*Sempronius Gracchus* being Tribune of the Commons, provided that a certain quantity of corn should monethly be given unto the poorer sort at a low price, *Semisse & triente*; that is, about six pence farthing a bushell: Hereupon was there a place appointed in *Rome*, for the keeping of this common corn, together with certain lawes hanged up there called *leges frumentariæ*. This place was called *c Horrea Sempronia*. The quantity of corn laid up in every city for this purpose is by the later Lawyers termed *Canon*: as *Canon Alexandrinus*, *Canon urbis Romæ*, *&c. vide Stuck. de conviv. lib.* 1. *cap.* 35. Cic. Sextoi

c Ronn. ant. l. 8. c. 21.

Semisse & triente.] It appeareth by the next law that *Semissis* in this place must signifie the same as *senis æris* doth there. Whereby we may note, that *semissis* doth not alwayes signifie the half part of the *Roman* coyne called *As*, but somtime it signifieth a greater coyne, valuing almost our six pence.

Clodia lex.

P. Clodius Trib. Pl. ordained, that that corn which heretofore was sold to the poor *senis æris & trientibus in singulos modios*, that is, for sixpence farthing a bushell, should hereafter be given *gratis*, the charge and oversight of this dole was committed to *Sext. Claudius*. Cic. pro Sext. in Pison.

Terentia Cassia.

M. Terentius and *C. Cassius* being Consuls, preferred a law, *Uti alteræ decumæ à provinciis coemeretur, pretio in singulos modios* H.S. *trium constituto: Item ut civitatibus æqualiter imperaretur, pretio in singulos modios* H.S. *quatuor constituto.* Cic. Verrin. 5. & 7.

For the better understanding of this law, we must note
d Sig. de jur. Prov. l. 1. c. 1. *d* a threefold tithe paid by the Provinces. The first was the tenth part of the grain growing in the Province to be paid in *gratis*, and that was properly called *Decuma*, or *frumentum Decumanum*, and those that took this tithe to rent were called thence *Decumani*. A second sort of tithes was a certaine quantity of corn taken up for the L. President or chief governour of the Province, to keep his house, and that was called *Frumentum æstimatum*, that is, corn gathered up by way of taxation: for so this word *æstimo* coming from *æs*
e Fr. Sylv. in orat. pro Cluentio. doth signifie, *e Est autem æstimare ab ære dictum, id quod vulgo dicunt appreciare & taxare.* The third sort of tithes, was when the Senate finding scarcity of corn in *Rome*, did injoyn the Provinces to sell them a quantity of corn at a price set down by the Senatours themselves, and this corn sold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the same year a second sale was injoyned them, then they called that second pay, *Frumentum imperatum*. In the first clause of this law by [*altera decuma*] is meant *Frumentum emptum*; in the second clause, by these words [*civitatibus æqualiter imperaretur*] is understood *Frumentum imperatum*.

Lex Hieronica.

Cic. Verrin. 4. *Hiero* King of *Sicily* obtained a law, wherein was set down the quantity of corn that the *Aratores* or country farmers should pay unto the *Publicani*, that is, those which received the tithes, together with the time of payment, and this price agreed upon.

Cap. 12.

De legibus sumptuariis sive cibariis.

IN ancient times there was a commendable frugality among the *Romans* in their feast, but after ages grew to immoderate excesse therein; so that whole Goats and Boars,

Boars &c. were ſet on the table at one time. Such a hog thus dreſſed. *Cincius* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horſe; becauſe the belly thereof was ſtuffed with variety of fowle and rabbats, and ſuch like, as the *Trojan* horſe was with armed men. This kind of exceſſe *Tiberius Cæſar* laboured to redreſſe, by ſerving at his table cold halfe-eaten diſhes at ſolemne feaſts, uſing this proverb, b *Dimidiatus aper omnia eadem habet quæ totus.* Hence alſo men of ſeverer diſcipline enacted lawes termed *Leges ſumptuariæ*, or *Cibariæ*, which preſcribed a moderation, not only for the charges in their greateſt feaſts, that they ſhould not exceed ſuch and ſuch ſums of money, but alſo for the gueſts to be invited, that they ſhould not exceed ſuch a number. The chiefe of theſe lawes were theſe that follow.

a Stuck. de conviv. l. 3. c 3.

b Suet. Tiber. 34.

Lex Orchia.

C. Orchius being Protector of the commons, by the conſent of the Senate, the third year before *Cato* was *Cenſor*, preferred a law, whereby he only moderated the number of gueſts, without any limitation of the charges or ſuperfluous expence at feaſts.

Lex Fannia.

Twenty two years after *Orchius* his law, *C. Fannius* being *Conſul* enacted another for the moderating of expences, allowing *Non plures denis aſſibus* to be ſpent in their ordinary feaſts: But upon thoſe more ſolemn feaſts dedicated unto *Saturn*, and from thence called *Saturnalia*; likewiſe when any publique games were exhibited by the Roman people, he then allowed *Centum aſſes*, ordaining that no other fowl ſhould then be dreſſed but only one hen, and that not fatted for the purpoſe.

Non plures denis aſſibus] The *Roman* coyne *As* was ſo called c *quaſi as*, becauſe the matter thereof was *braſs*; d at firſt it conſiſted of a full pound weight; afterward in the firſt *Punick* war, by reaſon of the ſcarcity of money, they made of every pound of braſſe ſix of thoſe coyns, each valuing as much

c Varro lib. 4. de ling. Latin.
d Plin. l. 33. cap. 4.

much as they did at firſt. In the ſecond *Puniek* warre there were twelve made of every pound: at laſt by vertue of a law which *Papirius* enacted, foure and twenty were made of a pound; and ſo they continued; the value always remained the ſame, *videl.* ob.q. ſo that to allow but ten of theſe to a feaſt, ſeemeth a matter altogether uncredible; but conſider with the frugality the cheapneſſe of thoſe times, it may be granted for a truth; *e* for ten of theſe were the price of a ſheep, and a hundred the price of one oxe.

e A.Gel.13. cap.2.

Lex Didia.

Eighteen years after *Fannius*, *Didius* ordained that the former ſumptuary lawes ſhould bee of force, not onely in *Rome*, but throughout *Italy*; Moreover that not only the feaſt-maker tranſgreſſing, but all the gueſts ſhould be liable to the penalty.

Lex Licinia.

P. Licinius Craſſus preferred a law in a manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his law being now antiquated, then made a new.

Lex Cornelia.

Cornelius Sylla beng Dictator ordained a lavv for the price of meats, ſo that he was thought by cheapneſſe of victuals to encreaſe rather then to reſtraine ſuperfluities at feaſts.

Lex Antia.

Antius Reſtio preferred a uſefull law to moderate expences in feaſting, which notwithſtanding was violated, and in a manner abrogated by the contrary practice of the Citizens in generall. For which cauſe, *Reſtio* afterward being invited, would never come to any feaſt, becauſe he would not be an eye-witneſſe of the contempt of that law which himſelfe had cauſed. If any deſire to ſee more lavves of this nature, let him read *Stuc conviv lib. 1. cap. 3. Aul. Gel. lib. 2. cap. 24.* And *Macrob. Saturn. lib. 3. cap. 17.*

Cap. 13.

Cap. 13.

De re militari & bellis.

Gabinia lex.

A *Gabinius Tr. Pl.* preferred a law, that the managing of the warre against the pyrats should be in such manner committed unto *Pompey* for three years space, that over the whole sea between *Hercules* his pillars, and in the Maritane provinces unto the foure hundreth *Stadium* from the sea, he should have power to command any Kings, L. presidents, or whole corporations, to furnish him with all things necessary to that warre. Cic. pro lege Manilia.

Manilia lex.

C. Manilius Trib. Pl. perswaded a law, that the managing of warre against *Mithridates* should be committed unto *Cn. Pompeius*: That the whole province where *L. Lucullus* ruled, together with his whole army should be resigned unto him: Moreover that *Bithinia*, where *Glabrio* ruled should be added, together with all those bands and forces, which he had upon the sea against the pyrats, and all those provinces, over which the law *Gabinia* did entitle him governour, as *Phrygia*, *Lycaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis superior*, and *Armenia*. Cic. pro lege Manilia.

Cap 14.

De Tutelis.

THis word *Tutela* doth signifie a wardship, guardianship, or protection of a child in his nonage: whereof *Camerarius* observeth foure sorts, and we may with *Peditarius* add the fift. Either the overseers were appointed by will; or else the next of the kin were overseers; or the Magi- [f] I. Camerar. in orat. pro L. Flacco.

g I. Omphal. in orat. pro Cæcinna.

magistrate did appoint whom he thought fit: and these three sorts *g Omphalius* calleth thus: the first *Testamentariam*, the second *Legitimam*, the third *Dativam*. The fourth sort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum est, qui emancipati desiissent esse agnati*. The fifth *h Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of administration is committed to others, but yet certain chiefe overseers were appointed to see the will performed, who were called *Tutores honorarii*. *i* Where we must note, that the law provided overseers, not for children under age only, but for women also.

h Pellitarius. pro Cæcin.

i Cic. pro Muræn.

Emancipati desiissent esse agnati] by the *Roman* law every sonne was in such subjection unto his father, that before he could be released of this subjection & made free, he should by an imaginary sale, *k* be sold three times by his naturall father to another man, who was called by the lawyers *l Pater fiduciarius*; that is, a father in trust; yea, and be bought again by the naturall father, and so manumised by him, & then he became free. The form of this kind of sale, or alienation, is set down more at large in the explanatiō of one of the laws that followeth, with an example not much unlike this. This imaginary sale was called *Mancipatio*, the children thus alienated from the father were termed *Emancipati*, this forme of setting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus. That when any goods did fall unto a child thus alienated, by the death of his father, then should not the oversight of this child fall unto the next of the kin, termed *Agnati*, but *Quoniam desiit esse agnatus*, that is, because he had in a manner lost his alliance with his kindred, therefore should the oversight of the child belong unto the father in trust, termed *Pater fiduciarius*, whence the guardianship it selfe was called *Tutela fiduciaria*.

k Vid. leg. 12. tabuli.

l Pig. ide jure Rom. l. 1. c. 10.

Lætoria lex.

Cic. 3. de offic.

This law made by *Lætorius*, provided that there should be overseers appointed for those which were distracted, or did

did prodigally waſte their patrimony. For, as it appeareth by the common adage; *Ad Agnatos & Gentiles deducendus eſt*, they did account all prodigals mad men: they meaning no more by that, then we do by our Engliſh proverb, when we ſay of a ſpend-thrift, Let him be begged for a foole. The reaſon of their adage was, becauſe if any were diſtracted, by the Roman law his wardſhip fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

Cap. 15.

De Teſtamentis.

BEfore we deſcend unto the lawes themſelves, we will explaine thoſe three divers ſorts of Wills in uſe amongſt the Rmanes: Namely, *Teſtamentum calatis comitiis*: which was ſo called, becauſe twice in the yeare in time of peace the *Romane* people aſſembled themſelves together, to this end and purpoſe, that if any would make his will, the whole people might beare witneſſe therunto: theſe aſſemblies were termed *Calata comitia*. Secondly *Teſtamentum in procinctu*, that is, when a ſouldier in time of war, ready to give battle, did call out three or four of his fellows, & in the audience of them did by word of mouth pronounce his laſt will & teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making over his goods and poſſeſſions under a fained forme of ſale, unto a ſecond party, called *Hæres fiduciarius & imaginarius*, i.e. an heir in truſt, who ſhould afterward reſigne them unto the true and lawfull heir: & this imaginary kind of ſale, was performed with certain ſolemnities *circa æs & libram*, and alſo the ſale it ſelfe was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per nexum*. For the proofe of this which hath been delivered, touching the three

m Sig. de jure Rom. l. 1. c. 12. Cic. Ver. 3.

forts of wills I will referre the reader to *m Sigonius*.

Furia lex.

C. Furius Trib. Plb. made a law, that it ſhould not be lawfull for any to give away in way of legacy unto any, xcept to the kinſmen of him which manumiſed him, or ſome other certain perſons, *ſupra mille æſſes*, that is, above fifty ſhillings or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius*.

Voconia lex.

Cic. Ver. 3.

Q. Voconius Saxa Trib. Plb. tulit legem, Ne qui cenſus eſſet, virginem neve mulierem ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſve cuiquam legaret, quàm ad hærodem, hæredeſve pervenivet.

Cenſus.] This word *Cenſus* doth ſomtimes ſignifie all ſuch as have tendred the juſt valuation of their eſtate unto the *Cenſors*: and then *Incenſus* is oppoſite unto it; ſignifying ſuch an one as hath not rendred his eſtate or name to be regiſtred by the *Cenſors*. But in this place *Cenſus* is taken for ſuch a rich man whoſe eſtate was in the *Cenſors* book valued at one hundred thouſand *Seſterces*. (*vid. Aſconium in Verrem 3.*)

Supra quadrantem ſuorum bonorum] That is, No woman ſhould be heir to more then one quarter of ſuch a rich mans goods. For the right conceiving of this, we muſt note with *n Latomus*, that the whole inheritance (were it never ſo great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Uncia*, *Duæ unciæ dicebantur Sextans, tres Quadrans, quatuor Trieni, quinque Quincunx, ſex Semiſſis, ſeptem Septunx, octo Beſſis, novem Drodans, decem Dextunx, undecem Deunx, Totum As ut dictum eſt.* Again, every *Uncia* was divided into ſix parts called *Sextulæ*: *Duæ ſextulæ Duellam, tres Semunciam faciunt.* So then acording to the lawyers (as *o Alexander* obſerveth) if there were one heire alone inſtituted, he was termed *Hæres in Aſſem totum inſtitutus*: if otherwiſe there were many co-heires, then was

n Barth. Latom. in orat. pro Cecinna.

o Alex. Gen. dier. l. 1. c. 1.

it

it according as the *Teſtator* did appoint. Some were *ex Deunce hæredes*, that is, heires to eleven parts of his goods, there being but one part beſtowed from him: ſome were *hæredes ex quadrante*. that is, heires to one quarter of his goods: others were *Hæredes ex ſemuncia*, that is, they had the foure and twentieth part: others were *Sextula aſperſi*, that is they had the threeſcore and twelfth part of the whole *As*, that is of the whole inheritance, be it more or leſſe, &c. Here we muſt underſtand, that there is great difference between theſe two phraſes, *Inſtitui hæres in totum Aſſem, & ex toto Aſſe.* For all thoſe, which we nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howſoever, yet were they termed *Hæredes ex toto Aſſe*, that is, they were not *Legatarii*, ſuch as received legacies. Now none can be ſaid *In totum Aſſem inſtitui*, but he which is the alone and ſole heire unto the whole.

Cap. 16.

De uſa-ſapione.

Atinia lex.

A *Tinius* made a law, that the plea of preſcription or long poſſeſſion, ſhould not availe in things that had been ſtoln, but the intereſt which the right owner had in thoſe ſtoln goods, ſhould remaine perpetuall. The words of the law are theſe: *Quod ſurreptum eſt, ejus rei aeterna auctoritas eſſet.* Where by *auctoritas* is meant *jus dominii*. This crime of theft, as likewiſe of uſury, was ſo odious unto the *Roman*, that whoſoever was found guilty thereof, was condemned *p Lege quadrupli*, that is, to pay foure times as much: whence the informers againſt ſuch, were termed *Quadruplatores*. Cic. Ver. 3.

p Sig. de jure Rom. l. 1. c. 11.

q Fr. Sylv. in Verrem 1.

Cap. 17.

De Iudicibus, & Iudiciis.

Lex accuſatoria.

Cic. pro Mur. *Tully* mentioneth a law termed *Lex accuſatoria*, which in truth was no law, neither was there any author thereof: but there was ſuch a received cuſtome amongſt the *Romans*, that the accuſer ſhould object againſt the party accuſed, not only the preſent crime then queſtioned, but all other ſcapes and faults committed long before, to the bettering of his matter: that at length this accuſatory cuſtome became in manner of a law, and ſo was called *Lex accuſatoria*, vid. *Franc. Sylvium in orat. pro Mur.* r Their cuſtome alſo was to procure others to joyne with them in their accuſations; thoſe *ſ Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe unto the accuſation.

r Alex. Gen. dier l. 3. c. 5. ſ Cic. pro Muræn,

Lex Servilia & Sempronia.

Curio in orat. pro Scauro. Whereas *Sempronius* had preferred a Law, whereby he took away the authority of ſitting in judgment from the *Senators*, and appropriated it to the *Roman* Gentlemen. Q. *Servilius Cæpio* being *Conſul* did afterward prefer another law, whereby the adminiſtration of judgement was divided between the Senators and the Gentlemen.

Rupilia lex.

Cic. in Ver. t Sig. de jure Prov. l. 2. c. 5. *Rupilia lex vetebat diebus triginta ſortiri dicam.*] Here we muſt note with *t Sigonius*, that this law was of force only in the province of *Sicilia*: alſo that it is one thing *ſcribere diſcam*, that is, to enter an action; another *ſortiri dicam*, that is, by lots to chooſe the Judges, which was 30. dayes after.

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby

thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Druſus* ordaine, that the Judges ſhould be elected equally out of both orders, namely, three hundred out of the *Senate*, and three hundred out of the Gentry.

Plautia lex.

M. Plautius Sylvanus preferred a law, that the number of Judges ſhould be choſen, not only out of the *Roman Senators* and Gentlemen, but out of the populacy alſo, namely out of every Tribe fifteen Judges. Cic. pro Cornel.

Aurelia lex.

L. Aurelius Cotta being *Prætor* made a law, that the Judges ſhould be elected out of the *Senators*, the Gentlemen and thoſe Martiall Treaſurers, or Clarkes of the band called *Tribuni ærarii.* Cic. in Ver. ſæp.

Pompeia lex.

Cn. Pompeius Magnus being Conſul ordained, that the Judges ſhould be elected out of the wealthieſt *Centuries*, tying the election notwithſtanding to thoſe three degrees of people, namely Senators, Gentlemen, and Martiall Treaſurers; alſo he added that the number of Iudges to examine cauſes ſhould be ſeventy and five. Cic. in Piſon.

Julia lex.

C. Iulius Cæſar ordained, that the election of Judges ſhould be out of the Senators and Gentlemen, onely, leaving out the Martiall Treaſurers, and this *Tully* calleth *legem Judiciariam Cæſaris.* Cic. Philip. 1.

Antonia lex.

M. Antonius tulit legem, ut tertia judicum decuria è Centurionibus, Anteſignanis, Alaudis, Manipularibus fieret. Cic. Philip. 1. & 5.

Judicum decuriæ:] When the L. chief Juſtice had taken his oath, he choſe out ſome *ex certis ordinibus, non ex omni populo*, that is, out of ſuch degree and place, as the law required, to ſit in judgement on thoſe caſes, which were termed *cauſæ publicæ*: and theſe Judges he afterward divided into leſſer

numbers called *Decuriæ. Vid. Sigon. de jure Rom. lib. 2. c. 12.*

E Centurionibus.] *Centuriones* were Captaines over an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the *Roman* hiſtories. Sometimes *Anteſignani* do ſignifie the third part of the *Roman* Army: For all thoſe ſouldiers that fought before the banners or enſignes, as they were called *Haſtati* in reſpect of their weapon, ſo were they called *Anteſignani* in reſpect of their enſignes, before which they fought. The ſecond part of the Army, as they were called *Principes* in reſpect of their proweſſe, and valour, ſo were they called *Subſignani*, as fighting under the enſignes. The third part, as they were called *Triarii*, becauſe they fought in the third, or rereward, ſo were they called *Poſtſignani*, as fighting behind the enſignes. Where we muſt not think, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſignes among themſelves: (for every Maniple had his enſigne:) but the Eagle, and other chief enſignes were carried by the *Subſignani*, and in reſpect had to them they had their names. And hence ariſeth the ſecond acception of this word, namely, that all thoſe ſouldiers of every Maniple, which ſtood in front before their enſigne were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeverall proofes of this, *Lipſ. milit. Rom. lib. 1. dial. 3.*

Alaudis.] *Iul. Cæſar* preſſed a legion of ſouldiers out of *Gallia Tranſalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the forme of their helmets, which did reſemble the head of the Lark, called in French *Alauda. Barthol. Latomus in Phil. 1.*

Manipularibus.] Thoſe Captaines which governed a Maniple of ſouldiers, were called *Manipulares. Fr. Maturantius in Phil. 1.*

Lex Cincia de donis & muneribus.

M. Cincius being protector of the Commons, *M. Coruſ-*

lius

lius Cethegus, and *P. Sempronius Tuditanus* being *Conſuls*, preferred a law, that no man ſhould receive a gift or bribe from his client for pleading his cauſe. Of this we read in *Plautus*, and he called it *Legem muneralem*: alſo in *Tully de Senect.*

Cornelia Lex.

L. Cornelius Sylla preferred a law, that the chiefe Iudge of the bench called *Iudex Quæſtionis*, ſhould referre it unto the choiſe of the defendant, whether he would have judgement paſſed on him *Clam an Palam*, that is, (as *Sylvius* obſerveth) either by voices or by tables. Cic pro Cluentio.

Memnonia Lex.

This law (made by *Memnius*) provided, that no action ſhould be entred againſt thoſe, who were employed abroad in buſineſſe for the common-wealth. An addition unto this law was, that whoſoever ſhould *calumniari*, that is, forge an accuſation againſt another, a certain letter ſhould be burnt in his forehead in token of infamy. This law is ſometimes called *Lex Rhemnia*. Here we may with *u Fr. Sylvius* obſerve the difference of theſe three phraſes, *Calumniari*, *Prævaricari*, and *Tergiverſari*. He which doth in his accuſation forge faults never committed, is ſaid *Calumniari*. He which undertaketh ones ſuit, and either will not urge reaſons in the behalfe of his client, or anſwer the objections of his adverſary when he is able, is ſaid *Prævaricari*; that is, to play the falſe *Proctour*. He which doth deſiſt in his accuſation and let his ſuit fall, is ſaid *Tergiverſari*. Cic. in Ver. Cic. pro Sext. Roſcio. u Fr. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

In iis rebus quæ mancipi ſunt, in periculum judicii præſtare debet, qui ſe nexu obligavit, that is if the buyer of any thing in that forme of ſale called *Nexus* be troubled in law, the ſeller thereof muſt ſecure him, and ſave him harmeleſſe. Cic. pro Mur.

Mancipi ſunt] *x* Thoſe things were termed *res Mancipi*, which were alienated from the ſeller *Nexu* that is, by ſuch a forme of ſale as followeth. The forme was thus: At the leaſt five witneſſes, all *Roman* Citizens and of full age, beſides x Fr. Sylv. in orat. pro Mur.

ſides one called *Libri-pens* (from holding of a paire of ballances) ſhould be preſent: and the chapman and buyer ſhould come with a certain braſſe coine in his hand and ſay, (for example ſake, if it were a bond-ſlave to be ſold) *Hunc ego hominem ex jure Quiritium meum eſſe aio, iſq; mihi emptus eſt hoc ære*; and forthwith ſtriking the ballance with the braſs coyn, he gave it to him that made the ſale. This kind of chaffering was termed *Nexus*, as we may ſuppoſe *à nectendo*, becauſe it did bind the ſeller to make good the ſale: *y* ſometimes it is called *Per as & libram venditio*, becauſe of the ceremonies uſed in it. *z* Now it is commonly called *Mancipatio* a *à manus capione*, from taking that which is ſold into ones hands or poſſeſſion: whence the word *Mancipatus*, and *Mancipium* are uſed to ſignifie a bond-ſlave, that is, in this manner ſold; though ſometimes *Mancipium* doth ſignifie the ſale it ſelfe: whence *Cic.* uſeth this phraſe, *Lex Mancipii*, to ſignifie a clauſe or condition put in the ſale. All things ſold after this manner were termed *Res Mancipi*; *d* The word *Mancipi* being a noune indeclinable, as *Frugi*, *Cordi*, *Hujuſmodi*, *&c.* and from this forme of ſale, the morgaging of land for the paiment of money may ſeeme to be called *Mancipatio fiduciaria*; He which did thus receive the morgage, or land in way of ſecurity, is ſaid to *accipere fiduciam*. *Cic. orat pro L. Flacco.* Upon which place ſaith *Lambinus* in his notations, *Accipere fiduciam, eſt fundum, aut aliam rem ſoli ſeu ut appellant immobilem, ab aliquo mancipare accipere ſeu eâ lege ut cùm ille repetat ei remancipet.* We may conject the reaſon of theſe ballances, why they ſhould be uſed in this kinde of bargaining, to be, becauſe in old time they did not bargain by paying coined money, which was called *Æs ſignatum*, but by paying a certain weight of mony; whence ſuch mony was termed *Æs grave*: And hence it is that metaphorically we tranſlate *Pendo* and *rependo*, to pay and repay.

y Sylv. ibid.

z Melan & in orat. pro Mur. *a* Camerar. in orat. pro Muræn.

b Priſcian l. 3. vid. Fr. Sylv. in orat. pro Mur.

Alex Gen. dier. l. 2. c. 15.

CAP. 18.

Cap. 18.

De Majestate.

Lex Varia.

Varius Trib. Pleb. made a law, that the *Praetors Quæsitores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt weare against the *Roman* people, Cic. pro Cornel.

Julia lex.

C. Jul. Cæsar ordained, that such as were condemned of treason, or causing uproars in the common-wealth should be banished. Cic. Philip.

Cap. 19.

De Ambitu.

THose lawes were termed *Leges de Ambitu*, which were made against indirect or unlawfull courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

M. Acilius Glabrio, and *C. Calpurnius Piso* being *Consuls*, made a law, that such as were convinced of sinister and undirect meanes used in their canvasses should be fined at a certaine sum of money set on their heads, and they should be made both uncapable of bearing office, and uneligible into a *Senators* place. Cic. pro Mur.

pro cMur.

Senatus consultum de Ambitu.

M. Tullius Cic. and *C. Antonius* being *Consuls*, a certain decree was made by the *Senate*, that if such as did either salute or attend upon thosewhich stood for offices, were hired for any manner of reward, and if any publike prizes were occasioned to be plaid; or any publike feasts made by them, they should be liable to the censure of *Calpurnius* his law.

Tullia lex.

Cic. pro Sext. *M. Tullius Cic.* made a law, than no man standing for an office should cause any publike prize to be plaid, within two years that he either had stood, or should stand for an office, unlesse the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawfull meanes for the attaining of any office, should suffer ten yeares exilement. And the commonalty offending in that point, should be punished with an heavier punishment then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his answer in the Court of their undirect meanes, *Si morbum excusaret*, that is, If he did urge his sickneſse for his not appearance, then should he undergo a penalty.

Si morbum excusaret.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si judex alterve ex litigatoribus, morbo sontico impediatur, judicii diffisus esto.*] that is, If either Judge, plaintiff, or Defendant were sick they should *diffindere diem, id, est, proferre & in alind tempus rejicere*, prorogue the time of judgement. And unlesse some might think, that by *morbus sonticus* was meant some strange disease, *Sigonius* inferreth, that every disease is tearmed *Sonticus*, which hindreth us in the performance of our businesse. *Sontes enim nocentes dicunt.*

d Sig. de jud. l. 1, cap. 28.

Licinia de Sodalitiis.

Cic. pro Planc. *M. Licinius Crassus* being *Consul* perswaded, *ut in Sodalitiis Judices, ab accusatore ex tribubus ederentur.*

Sodalitia.]

Sodalitia] In the latter times the *Romans* in their canvaſſes would gather together a certain company of their ſide or faction to follow them, terming them *Sodales*, and theſe *Sodales* would, as it were, by violence force the people to ſuffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib. 2. cap.* 30.

Judices ab accuſatore ederentur ex tribubus.] We may read of three ſorts of Judges among the *Romans*, or rather of three divers kindes of elections of their Judges. For either they were, *Lecti ſortitione*, of which more may be ſeene in one of the lawes following; or *Editione*, by nomination, or naming them, the manner thereof being thus; That either the plaintiffe ſhould chooſe them all, and then were they called *Judices edititii*, or the plaintiffe ſhould chooſe one halfe, and the Defendant the other, and then were they called *Judices alterni*. *Melanthon in Cic. pro Muren.*

Cap. 20.

De pecuniis repetundis.

Firſt touching the word *Repetundæ*, *Sigonius* ſaith that ſuch money was tearmed *Pecuniæ repetundæ quæ poſſent repeti*, which might by the courſe of law be recovered. Namely ſuch mony as any magiſtrate, Judge, or publike officer, did either in the provinces, or in the City receive as a bribe from the Allies and Aſſociats, or from the *Roman* citizens for the adminiſtration of Juſtice, or the execution of any publike duty: and this kind of bribe they termed *Pecunias repetundas*, *pecuniam ablatam*, *captam*, *coactam*, *conciliatam*, *averſam* (*Cic. in Verrem.*) But as it ſeemeth very probable, theſe lawes againſt bribery were firſt occaſioned, for the eaſe and relieſe of the *Roman* provinces and Allies, called in Latine *Socii*, who were much abuſed in this kind by the Prov. *Conſuls*, *Prætors*, and *Quæſtors*, &c. whence *Tul-*

ly called this law against bribery, *Legem Socialem*. Here also may we note, that *Tully* useth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put money to use. *Occupare pecuniam est collocare, inquit Nonius, id est, Fœnori dare. Vid. Lambin. annot. in Cic. orat. pro L. Flacco.*

a Cic. in orat. pro L. Flacco.

Junia Lex.

M. Junius Pennus Trib. Pl. preferred a law, that no such as were convinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.*

Litis æstimationem.] Here we will consider the difference of these three phrases, *Litis contestatio, Litis redemptio, & Litis æstimatio.* c The first signifieth the producing of witnesses when both sides shall openly in the Court use the forme of words, *Testes estote*; which was not done, *antequam satisdationes factæ essent* before sureties were put in, by the one, that he should *Iudicatum solvere*, pay that which he was condemned; by the other, that he would *rem ratam habere*, that is, stand to the verdict or sentence in the Court. The second phrase signifieth a composition, or an argument agreed upon by both sides between themselves: f *Redimere lites est pactionem facere, qui enim pacisciturr, facit ut lis non sit.* The third is, when the party which is cast in the suit is adjudged to pay the mony, or the worth of the goods called in question, together with the cost and dammages in law unto his adversary. g *Litem æstimare est pecuniam, & qualis fuit, & propter quam condemnatus est reus, in summam redigere, quæ de bonis ejus redigatur.* h And *Æstimare litem est, quod vulgò dicitur, Taxare litis expensas.*

c Sig. de jud. lib. 1. cap. 27.

f Orat. pro Q. Roscio.

g Fr. Sylv. in orat. pro Cluentio.

h I. Tiffin. in orat. pro Rabirio.

Acilia Lex.

M. Acilius Glabrio made a law, that such as were accused of bribery, *Neq; ampliari, neq; comperendinari possent*, that is, they must out of hand receive judgement.

For the right understanding of these two words [*Ampliari, & comperendinari*] we must consider the ancient customes and ceremonies used by the *Romans* in handling their suits of

of law. First there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *poſtulatio*, that is a requeſt put up unto the *Prætor*, that it might be lawfull for the plaintiffe to enter his action againſt the Defendant: whence *poſtulare aliquem de hoc vel illo crimine*, is to accuſe one of this or that crime. Thirdly *Nominis delatio*, that is, the taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel litem*: and *Diem alicui dicere*, that is to enter an action againſt one. In the ſecond of theſe Acts, namely, when requeſt was made by the plaintiffe unto the *Prætor*, that he might enter his action againſt the Defendant, then the plaintiffe did *Vadari reum*, that is, demand ſureties or baile from the defendant, that he would appear upon the day appointed by the *Prætor*: And the plaintiffe did again, *Promittere Vadimonium*, enter bond alſo for his own appearance upon the ſame day, which commonly was the third day following, called properly *Dies perendinus*, and ſometimes *dies tertius* ſimply, as it appeareth by thoſe capital letters. I. D. T. S. P. uſed to be written in their actions: which letters *Proſus* expoundeth thus, *In diem tertium ſive perendinum*. So that then properly, *Is vel reus dicitur comperendinari*, when the giving of ſentence is deferred till the third day. Moreover, before the *Prætor* would ſuffer the action to be entred, he would ſwear the plaintiffe, that he did not accuſe the defendant *calumniandi cauſa*, that is, falſely or maliciouſly, and this kinde of ſwearing was termed *calumniam jurare, calumniam dejurare*, and *In litem jurare*. Now if either party were abſent from the court upon the third day, except he were ſick, he was caſt in his ſuit, and the *Prætor* did grant an execution, called *Edictum peremptorium*, whereby he gave authority to his adverſary to ſeize upon his goods. Sometimes there were two or three edicts in manner of Proſes or Writs, before the *Edictum peremptorium* could be obtained: ſometimes it was granted at the firſt, and then was it [k] called *unum pro omnibus*.

[i] Sig. de jud. lib. 1. cap. 27.

[k] Sig. ejuſd. l. cap. 28.

bus, *l* Now if both parties came into the Court and did appeare, then were they said *se stitisse*: so that this word *sisto* amongst the lawyers did signifie to shew ones selfe in the Court. Upon the third day the *Prætor* also with the whole bench of Judges did meet, and the *Judex Quæstionis* (whom *Rosinus* maketh a distinct officer differing from the *Prætor*) did cause all the *Select* Judges to pull out certain lots out of an urn or pitcher brought thither for that purpose, and those Judges upon whom the lot fel, were to sit in judgment: This was called *Sortitio Judicum*. Now if either the Plaintiffe or Defendant did suspect any of those, that they would be partiall, then might he except against them, and that was called *Judicum rejectio*: then the *Judex quæstionis* would in manner aforesaid choose other Judges in their places, and that was called *subsortitio*. Which being ended, those Judges which were thus chosen, received everyone of them from the *Prætor* three tables, the one having this letter *A* written in it, betokening *Absolution*: whence *Tully* calleth it *literam salutarem*: the other having this letter *C* written in it, betokening *Condemnation*: the third having these two letters *N. L:* betokening *Non liquet*. After the receipt of the tables, then did the *Prætor mittere vel dimittere judices in consilium*, that is, sent them to cast their tables into the urnes, there being three urnes or little coffers purposely provided; the one for those Judges which were chosen out of the *Senators*, the other for those that were chosen out of the Gentlemen, the third for those which were chosen out of the *Martiall* Treasurers. Now if they did cast the first sort of tables into the urnes, then the *Prætor* pronounced the defendant absolved, if the second, then he pronounced him, condemned; if the third, then he pronounced *Amplius cognoscendum*, that they must have logner time to enquire: And this is properly tearmed *Ampliatio*, a Reprive, & in such manner it is said, *quod lis vel reus dicitur ampliari*. The proofes for this manner of proceeding in law, may be collected out of *Rosinus lib. antiq. 9. cap.*

l Sig. ejusd. l. cap. 21.

*cap.*19,20 & 24. and out of *Sigonius*, according to the marginall quotations. The like cuſtome ſeemeth to have been received alſo among the Græcians, who had three letters of their Alphabet, anſwerable to thoſe among the *Romans*; Θ was *damnationis ſymbolum*, which occaſioned that of *Perſius*,

Et potis es nigrum vitio præfigere Theta.

T. a token of abſolution, *A.* of ampliation. *Vid Eraſm. Adag.* Θ *præfigere.* Some, as it appeareth by *Eraſmus*, give a reaſon of Θ, becauſe it reſembleth the heart of man, wounded in the middeſt with a dart; others, becauſe it was the firſt letter of θάνατος, ſignifying death, according to that,

Infœlix multis Theta eſt mihi litera fœlix.
Si Θάνατον *ſcribit, ſcribit & illa* Θεὸν.

Cornelius Ciba being *Dictator*, ordained a law, that the chief Judge, called *Judex quæſtionis*, with the whole bench of Judges ſhould ſit upon life & death, on ſuch as had killed a man on ſuch as had with an evill intent ſet any place on fire; on ſuch as ſhould walke with any weapons, either to kill or rob a man; on ſuch as had either made, bought, ſold, had, or given, any poyſon, thereby to kill a man, or any magiſtrate, whoſoever ſhould cauſe any conventicle or ſecret aſſemblies, or ſhould give their conſent to the ſuborning of any man, to accuſe another falſely, that therby he being innocent, might be oppreſſed and condemned by publike judgment. Moreover *De ejus capite quærito, &c.* that is, Let them ſit upon life and death on that man, which ſhall beare falſe witneſſe that another might be condemned to death; on that magiſtrate or chiefe judge, which ſhall take a bribe to condemne another to death. Cic. pro Cluent.

Parricidium.] This word doth properly ſignifie onely a murthering of ones parents or kinsfolk. but in *Numa Pompilius* his time, it ſignified as much as *homicidium*, that is, any man-ſlaughter whatſoever.

CAP.

Cap. 21.

Lex 12. tabularum de vindciis.

Si qui in jure manum conſerunt, utriq; ſuperſtitibus præſentibus vindicias ſumunto.

Si qui in jure.] Here we muſt note that the cuſtome among the *Romans* in old time was, that as often as any controverſie did ariſe touching the poſſeſſion of an houſe, a field, or any ſuch like thing, the *Prætor* did go unto the houſe, field, or the thing queſtioned, being accompanied thither with the plaintiffe and the defendant, together with others whom the law required to be preſent as witneſſes. This place, whreſoever it were, though in the open field, during the time that the *Prætor* ſate there to give judgment, was termed in Latin *Jus*, in Engliſh a Court. Where in the preſence of the *Prætor* and the witneſſe, the Plaintiffe and Defendant, did *manum conſerere*, that is, as *m Camerarius* ſuppoſeth, argue and diſpute the caſe *pro* and *con* in a ſolemne form of words preſcribed them by the law. For this phraſe is borrowed by the Lawyers from the art military, where ſouldiers are ſaid *manum vel manus conſerere*, when they fight hand to hand, [*utriq; ſuperſtitibus præſentibus*] that is, let both parties in the preſence of witneſſe (ſo n *Feſtus* expoundeth *ſuperſtites*) [*Vindicias ſumunto*] that is, let them take a turfe of the ground: for ſo *o Sigonius* expoundeth *Vindiciæ*: though properly (as he obſerveth) it ſignified the poſſeſſion of a thing, rather then the thing poſſeſſed. This turf being taken up, was carried to the *Prætor*, and judgment was given upon that, as upon the whole. I doe preſume that in other caſes, as in taking the poſſeſſion of an houſe, &c. ſome other thing in manner of the turfe was preſented unto the *Prætor*, upon which, as upon the whole he gave judgement. In proceſſe of time, the *Prætor* by reaſon of the tumult of other imployments, not finding convenient leaſure to review every particular

m I. Camerar. pro L. Murænæ.

n Roſin. antiq. lib 8 cap. 29.

o Sig. de jud. lib. 1 cap. 21. *Vindictam ferre ex ſententia decreto, rem obtinere dicebat. Vindicias judex ſerebat, Vindicias qui rem obtinebat. Turneb. adv. l. 13. 27.*

cular ground, or houſe called in queſtion, *p* it was ordained contrary to the twelve tables, that the Plaintif in ſuch caſes ſhould come into the court, and challenge the Defendent in this form of words, *Ex jure manu conſertum te voco*, that is, I challenge thee to go out of the Court into the field, to uſe one towards the other that ſolem form of words which the law injoyneth. Then did the Defendent either yeeld the poſſeſſion of the ground, or elſe did reply, *Unde tu me ex jure manu conſertum vocâſti, inde ibi ego te reveco.* Then did they both, taking witneſſes with them, without the company of the *Prætor*, *inire viam*, that is, go into the ground, bringing back a turf thereof, upon the which (as in manner ſhown) the *Prætor* gave judgment at their return.

p A. Gel. noct. Attic. l. 20. c. 10

For the better underſtanding of this that hath been ſpoken in the explanation of this Law, we muſt note, that the action termed *Vindicatio*, was twofold: either the ſuit for the poſſeſſion of a thing, or the ſuit for the Lordſhip, or right owning thereof. The poſſeſſion of any thing was recovered, either by a true and reall violence, or by a ſeeming violence: This ſeeming violence was twofold, either it was *manu conſertio*, which was ſhown immediately before; or *moribus deductio*, that is, a cuſtomary leading the unlawfull *poſſeſſor* out of the ground, thereby to enter poſſeſſion. *Vis ſimulata, altera à lege, altera emanavit à moribus*, ſaith *q Sigon.* The firſt of theſe did ariſe from the *Roman* Law, the other from a cuſtome among the *Romans*: the firſt of theſe is to be ſeen in *Tully* his Oration *pro Murena*, the other *pro Cœcinna*: To theſe *Sigonius* addeth a third kind of ſeeming violence; which how juſtly he hath termed a violence, I ſhall leave to the indifferent judgment of the unpartiall reader. The right of the Lordſhip, or owning any thing, was ſued for in this manner: the Plaintif did queſtion with the Defendent thus; firſt, *an auctor eſſet?* that is, whether he had not covertly made away the poſſeſſion of the thing, thereby to fruſtrate the action. Secondly, *an ſponderet*, that is, whether he would

q De ind. lib. 1. cap. 21.

put in a gage of mony into the court, which he would forfeit if he were cast, which being done, the plaintif did also upon the demand of the defendant put in a gage of mony to be forfeited if he prevailed not in his suit. This gage of mony was termed *r sacramentum*; & in this sense, *Tully pro Milone*, saith, *Injustis vindiciis & sacramentis alienos fundos petunt*, that is, they sue for other mens grounds, with unjust actions and gages of mony. Thirdly, *An satis daret*, that is, whether he would put in surety, that during the triall in law, the ground or house called in question should not be impaired? The solemn form of words used in the first demand, is thus to be seen in *s Tully*, *Quando in jure te conspicio, postulo anne fies auctor?* If the defendant held his peace, then was he adjudged to pay all cost and damage; if he professed himself the present *possessor*, then did the plaintif proceed in manner as he should for the possession thereof; if he denied it, then did the *Prætor* say unto the plaintif, *Quando negat sacramento quærito*: Thereupon saith the plaintif to the defendant, *Quando negas, te sacramento quinquagenario provoco: spondes? è te soluturum quinquaginta asses si auctor sis?* To whom the defendant replyed, *spondeo quinquaginta asses, si auctor sim: Tu vero spondesne idem, ni sim?* The plaintif answered, *Ego quoq; spondeo.* Now in this kinde of stipulation, the plaintif was said *sponsione & sacramento provocare, sacramento rogare, quærere, & stipulari*, that is, to challenge one to pawn a sum of mony for the triall of a suit in law. The defendant was said, *contendere ex provocatione*, *contendere sacramento & restipulari*, that is, to be sued in such manner. This money was termed *sacramentum*, *t* becausse when it was forfeited it was bestowed *in rebus sacris & divinis*. Touching the last interrogatory, I read no set form of words, but by the word *satisdatio*, the intelligent reader may conject, that it did somewhat symbolize with our English custom of putting in baile. *u* This putting in of baile was twofold. The one was *satisdare judicatum solvi*, to bind himself to

r Sigon de judic. l. 1. c. 21.

s Cic. orat. pro Murena & pro Cœcin.

t Sig. de jud. l. 1. cap. 21.

u Sigon. de judic. l. 1. c. 27.

to pay what ſhould be adjudged. The ſecond was *ſatisdare rem ratam habere*, to become bound that he would ſtand to the verdict and judgment of the Court. The firſt of theſe bonds was required to be performed by the defendent: the ſecond by the Plaintiffe's Proctor or Atturney. But if the Action were an action of debt, then the Proctors alone became bound; the Plaintiffs Proctor, that he would ſtand to the judgment; the Defendents Proctor, that the debt adjudged ſhould be paid.

LIB. IV.

Rites and Cuſtomes obſerved by the Romans *in their wars.*

De Militia.

TOuching the art *Military* uſed among the *Romans*, it will not be impertinent to conſider firſt how war was proclamed, and peace eſtabliſhed by them; then to march on to the deſcription of their bands, or companies, where we may firſt obſerve the office of their chief Captain, and their ſubordinate leaders, together with the ſeverall Wards, into which the univerſall army was divided. After this we may deſcend unto the divertſitie of puniſhments uſed toward Captives, and likewiſe towards refractorious and diſobedient ſouldiers: Adding as *a Corrollary* or *Period* to our whole Diſcourſe the ſeveral rewards, which the L. General with his Souldiers after the performance of certain noble atchievements received.

CAP. I.

Cap. I.

De ritu, quem Romani, obſervarunt vel fœdus ferientes, vel bellum inferentes: & de triplici ratione conſcribendi milites.

VVEE may remember that it hath been already ſhewn, that both the proclaming of warre and peace belonged unto a certain order of *Roman* Prieſts, called *Fœciales*, who by reaſon of their office, I Engliſhed *Heraults at armes*. The rites and ceremonies, which they uſed, when they proclamed peace, were as followeth: *viz.* One of thoſe Heraulds having his commiſſion from the State (after that both ſides had agreed upon the truce and league now to be concluded) took up a ſtone in his hand, *a* uſing this ſolemn form of words: *Si rectè & ſine dolo malo hoc fœdus atq; hoc jusjurandum facio, dii mihi cuncta felicia præſtent, ſin aliter aut ago aut cogito (cæteris omnibus ſalvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis ſepulchris ſolus ego peream, ut his lapis è manibus decidat*, and therewithall he caſt the ſtone out of his hand: which manner of oath was termed *Iurare Iovem lapidem*, or *per Iovem lapidem*, that is, as it hath been rendred by *Feſtus*, to ſwear by *Jupiter*, holding a ſtone in ones hand: *b* Many ſay that he did caſt that ſtone at an hog or porket brought thither purpoſely, adding theſe words to the former; *Si prior populus Romanus defexit publico conſilio, tum ille Dieſpiter, populum Rom. ſic ferito, ut ego hunc porcum hodie feriam*. alluding to which cuſtome *Virgil* ſaith,

Et cæsâ jungebant fœdera porcâ.

The manner of denouncing warre hath been already ſhewn. The act of ſervice in warre was termed *Merere ſub hoc vel illo duce*, that is to ſerve in warre under this or that Captain; and whatſoever ſouldier was diſcharged of his ſervice

a Polyb. vide Roſin. antiq. lib. 10. cap. 25

b Sig. de jure Ital. 1. cap. 1.

vice, as having ſerved out his whole time, he was called *mi-*
les eremitus, and by [c] *Tully*, ſuch a one is ſaid *ſtipendia confeciſ-*
ſe. [d] *Servius* hath obſerved that the *Roman* ſouldiers were
preſſed three manner of wayes: *per Sacramentum, Conjurati-*
onem, & Evocationem. But [e] *Lipſius* cenſureth him for the a-
miſſe explanation of the laſt member. Therefore the ind ffe-
rent reader ſhall give me leave to borrow the termes from
Servius; but the explanation of them partly from *Servius*, &
partly from *Lipſius* in the places now quoted. Ordinarily
ſouldiers at their preſs did each ſeverally take their oath not
to forſake their Captain or country; and this oath was called
Sacramentum militare; the words thereof are rendred by
[f] *Polybius* thus; *Optemperaturus ſum, & facturus quicquid*
mandabitur ab imperatoribus, juxta vires; and thoſe were ter-
med *Milites per ſacramentum*. [g] This ſort of ſouldiers were
upon appointed dayes, as it were of publike Muſter, elected
and choſen by the military *Tribunes* under the *Conſuls*: the
aſſignment of the day did chiefly belong unto the *Conſuls*,
at which time if any ſouldier withdrew himſelf, and did not
appeare, he was ſeverely puniſhed, ſomtimes by impriſon-
ment, ſomtimes by confiſcation of his goods, ſomtimes by
being ſold for a bondſlave. Upon extraordinary occaſions
(as when tumults or commotions did cauſe any ſuſpition of
imminent danger) the chief leader of the ſouldiers did go
unto the Capitol, and bring forth two banners of flags, the
one red, called therefore *Vexillum Roſeum*, unto which the
footmen repaired; the other skie-coloured, called therefore
Cæruleum, which the horſemen followed. The reaſon why
the horſemens banner was skie-coloured, is rendred thus,
becauſe it did moſt reſemble the colour of the ſea, which co-
lour they deemed moſt acceptable to *Neptune*, who was both
the God of the ſea, and the firſt author of horſes. Now
becauſe the ſuddain danger would not yeeld ſo much time
that they might ſeverally be ſworne, therefore did they take
their oath in common altogether, only one chief ſouldier
throughout

[c] Orat. pro lege Manil.
[d] Serv. l. 2. & 7. Æneid.
[e] Lipſ. de milit. Rom. lib. 1. dial. 8.
[f] Vid. Lipſ. de milit. Rom. l. 1. dial. 6.
[g] Lipſ. de mil. Rom. l. 1. dial. 4.

throughout a whole legion, took his oath at large, and expreſs words, *i* the reſt followed in-order one by one, ſaying καθὼς ὁ πρῶτος, that is, that he ſwore the ſame as the firſt. If the *Tribune* diſtruſted his ſouldiers fidelity, then would he ſwear them every one ſeverally in terms at large, and thence were they called *Milites per conjurationem*; as likewiſe *Milites ſubitarii*, in reſpect of their ſuddain preſs: The third member may alſo be admitted if we with * *Lipſius* underſtand it in its true ſenſe, namely for thoſe ſouldiers, who by the L. General were added unto the body of their army, he having authority to call out ſuch other ſouldiers, who for their long ſervice were diſcharged from giving in their names at a muſter,: And theſe are generally by all authors termed *Milites evocati*, and *Lipſius* deemeth them all one with thoſe whom *Servius* calleth *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war upon their enemies, then did the L. General ſummon them to prepare themſelves by a ſound of trumpets; & this was tearmed, *Claſſicum cane à calando*, which ſignifieth to call. Which being done, a skarlet banner was hanged out at the L. General his pavilion, from which ceremony I think that that common adage did firſt ariſe, *Conferre ſigna & Collatis ſignis pugnare*, to joyn battle. Immediatly upon this they did *Garritum tollere*, make a great ſhout or noiſe with their voices, to the greater teror of their enemies, & that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe foure ceremonies are to be ſeen more at large in *k Lipſius*. Vnto which we may add the fift, obſerved by *l Fr. Silvius*; namely that at the removing of their campe they did *conclamare vaſa*, give a great ſhout or cry, in token that the ſouldiers ſhould truſs up their bagge and baggage: and hence it is that *m Plautus* uſeth this phraſe, *colligatis vaſis* to ſignify as much as *paratè* or *expeditè*. Now that they might be the readier for battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe unto

i Lipſ. de mil. lib. 1. dial. 6.

* Lipſ. de mil. Rom. lib. 1. dial. 8.

k Lib. 4. de mil. Rom. dial. 11. & 12.

l in ep. viror. illuſt. l. 4. ep. 1.

m Plaut. in Pſeudolo.

unto them; and a ſouldier thus girt, was called *Cinctutus*, that is, (ſaith n *Pighius*) *Cinctu tutus*. o *Inde diſcinctos ignavos, & militiæ minimè aptos putârunt, Præcinctos verò fortes, & ſtrenuos.* Hence alſo is that proverbial ſpeech, *In præcinctu ſtare*, or *vivere*, to be in a readineſs continually.

Non pudet ad morem diſcincti vivere Nattæ. Perſ. Sat. 3.

n Pigh. in ſuæ præf. ad lib. 1. ſeptim.

o Alex. Gen. dier. l. 1. c. 20.

Cap. 2.

De Legione, Auxiliis, & Legionis partibus.

THE *Roman* Forces were in old time divided into two ſeverall parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were ſuch as the neighbour and confederate countries did ſend unto the *Romans*. The Legions were taken out of the body of the *Romans*. p *Legio à deligendo dicta eſt*, from the choice and ſelecting of ſouldiers. q *Romulus* is ſaid to have been the firſt author of theſe Legions, making every Legion to contain three thouſand footmen, and three hundred horſemen, r one thouſand footmen and one hundred horſemen being taken out of each nationall Tribe. Afterward it was augmented by *Romulus* himſelf into foure thouſand footmen, *ſ* whence it was called *Quadrata Legio*. And in proceſſe of time a Legion increaſed unto the number of ſix thouſand: which number it ſeldome or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now t none could be ordinarily regiſtred for a ſouldier untill the ſeventeenth year of his age, u at which his firſt admiſſion he was termed *Tyro*, a freſh-water ſouldier: and hence figuratively *Tyrocinium* hath not been tranſlated onely the firſt entrance into war, but alſo the initiation, or firſt entrance into any art or ſcience whatſoever. After he had ſerved many yeares, then was he termed *Veteranus*, an old beaten ſouldier.

x The *Roman* Legion was divided *in pedites & equites*, there being

p Plutarch. in Romulo.

q Roſin ant. lib. 10. cap. 4.

r Sig. de jure Rom. l. 1. c. 15.

ſ Sigon ib.

t Alex. Gen. dier. l. 1. c. 20.

u Pancirol. l. rerum deperdit cap. de habit & veſt. veter.

x Sig. de jure Rom. l. 1. c. 15.

being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes; Cohortes in Manipulos; Manipuli in Centurias: Equites distributi erant in Turmas, Turma in Decurias.* The word *Cohors* doth signify that part of ground, which is commonly inclosed before the gate of an house, [y] which from the same word we call a *Court*: & [z] *Varro* giveth this reason of the *Metaphor*. As in a farm house (saith he) many out buildings joyned together make one inclosure; so *Cohors* consisteth of several maniples joyned together in one body. It is manifest (saith [a] *Alexan.*) that the *Romans* in ancient time did very seldom, yea never (except in great necessity) inroll into their universal army above four legions: and in an ordinary legion, which he termed *Legionem iustam*, ten *Cohortes*; every *Cohors* containing 3 maniples, every maniple two Centuries, every Century an hundred souldiers, whence they from *Centum* were called *Centuria* a Century. [b] These Centuries were sometimes divided into lesser numbers called *Contubernia*, every *Contubernium* containing ten souldiers besides their Captain [c] which was called *Decanus*, and *caput contubernii*. Where we must observe, that *Contubernium* doth signify as well the pavilion or lodging it self, as the souldiers lodging therein, and it may be so called *quasi contubernium* from *Taberna* signifying any slight lodging made of boards. Those that ruled over a thousand footmen we may in English call *Sergeants-major*: They called them *Tribuni militum*. Those that governed over the Centuries were called by them *Centuriones*, by us in English *Centurions*, and they had their inferiour officers under them which were called *Tergiductores*, or *Extremi agminis ductores*. [d] Their office was to oversee and look unto those of the camp which were sick, who commonly came behind the army *quasi extremum agmen, & tergum acici*. The horsemen were divided into several troops called *Turmæ*; every *Turma* containing thirty horsemen. Again every *Turma* was subdivided into three less companies called *Decuriæ*; every

[y] Edmunds in his observ. upon Cæsars Comment. lib. 2. c. 3.
[z] Varro lib. 2. de re rustica.
[a] Alex. Gen. dier. l. 1.
[b] Varro vid. Rosin. ant. Rom. l. 2. c. 5.
[c] Rosin. ibid.
[d] Veget. vid. Rosin. ant. Rom. l. 10. c. 7.

Decuria containing ten horsemen whence their captain was called *Decurio*; and the captains over the greater troops namely over the several wings of the horsemen, were called *Equitum præfecti*. Now the chief governour over the universal army was called commonly *Imperator*; we in English call him a *L. General*. His Lieutenant of L. Deputy was called *Legatus*,[c] who in old time was sent *non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first it is taken for him, who by commission from the State hath the managing of an army, being the same that *Prætor* was in ancient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General, who by his prowesse having put [f] one thousand of his enemies to the sword, was both by his souldiers saluted and the Senate styled, by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a sovereign Prince, King, or Monarch, in which sense it was the *Prænomen* of all the *Roman* Emperors, from *Julius Cæsar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age and experience, some being wealthier, elder & of more experience then others, hence was it requisite also, that there should be a distinction of places in their armies according to the desert and worth of each several person. We are therefore likewise to understand [g] that the *Consuls* every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*; their place in regard of other souldiers was base and dishonorable, not only because they fought a far off & were lightly armed; but also because they were commonly exposed to their enemies, as forlorn hopes. According to [h] *Lipsius* these *Velites* were commonly placed either *In Fronte, vice, or Cornibus*. In the front of the army, Secondly, in the distances

[c] Lips. de mil. Rom. lib. 2. dial. 10.

[f] Barth. Latom. in Phil. orat. 14.

[g] Lips. de mil. Rom. l. 1. c. 3.

[h] Lips. de mil. Rom. lib. 4. dial. 3.

spaces, or spaces between the several maniples. 7 In Cornu, that is, in the wings of the battle; not that the wings at any time consisted of those *Velites*, for that was the *Sacii* and Auxiliary forces; but either the spaces in the wings were filled up by those *Velites*, or else they might obtain a promiscuous place amongst those forainers. Notwithstanding they did like scouts run to and fro casting out their darts (as occasion was offered) and so retire: whence when a man doth leap from one thing to another in his talk, we say he doth *Velitari*. Having chosen out a competent number of these scouts, they proceeded to the choise of them, which they called *Hastati*, that is, Pikemen: forasmuch as they fought with a kind of javeling, which the Romans called *Hasta*. These Pike-men fought in the first part or fore-front of the main army. The third choise which they made was of the strongest and lustiest bodied men, who for the prime of their age were called *Principes*: and hence was the second place or ward in the main army called *Principia*, according to *Terence* his speech, *Ego ero post Principia*, that is, I will follow the *Principes*; thereby choosing to himself the best, and safest place. The last sort of souldiers, which stood in the third place or ward, were called *Triarii*. They were of all the most approved, and the very last help or refuge; so that if they failed, all was lost: and hence ariseth that form of speech, *Ad Triarios ventum est*, k whereby we signifie that a thing is come to the last push. As I suppose, the weapon wherewith these *Triarii* fought, was a dart with iron fastned at the end of it, called in Latin *Pilum*. The reasons of this my conjecture are these: first because the first Century of these *Triarii* was called *Primum pilum*, & their Centurion *primipilus* and *primipili*, & *Primus centurio*, because he was the chief Centurion in a whole legion, as having the charge of the chief banner, called the Eagle; l whence *Aquila* is sometimes used to signify *Primus pilus*, the office and place of the *Primipilus*. The second Century was called *Secundum*

7 Terent. Eun. Act 4. Scen 7.

k Alex. Gen. dier. l. 6. c. 18.

l Lips. de mil. Rom. lib. 1. dial. 1.

pilum and their Centurion *Secundi pilus*, &c. Secondly they called the *Principes*, which marched in the battle immediatly before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanos*, & by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattleing was divers. Sometimes they would make a winged army so that the main body thereof should be in the middle, and on each side a lesser company: The main body we in English call the *Vaunigard*, and the two lesser companies we call *Wings*, as likewise in Latine they call them *Alas aciei*, and *dextrum vel sinistrum cornu*. m. *Pancirollus* calleth them *Vexillationes*, because there fought no more in either wing then belonged to one banner called in Latin *vexillum*. The governors of these wings he calleth *Alarum Præfectos*. Sometimes they embattled so that the forefront of the army being small, it was enlarged bigger & bigger backward, in manner of a triangle: By n *Lipsius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum, quia velut fodit, & ruit invadendo*, Commonly it is called *Cuneus militum*, the *metapher* being borrowed not only from the resemblance it had with a wedg, but also from the use of a wedg: for they never embattled in that form unless it was to break through their enemies, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, enlarge their army in the forefront, making it to end in an angle: and o this they called *forfex* & *forceps militum*. Sometimes their form of embattling was circular & then was it called *Orbis, vel globus militum*. The banner or flag was properly called *Vexillū* being a diminitive of *Velum*. It was also called p *Bandum*: whence we do at this day call so many souldiers as do fight *sub eodem bando*, a band of souldiers: as *Romulus* called those that fought *sub eodem manipulo fœni* (an handful of hay being used at that time instead of a flag) *Manipulū militum*, Ovid,

m Pancir. in notit orient. & occident. imper. c. 32.

n Lipſ. milit. Rom. lib. 4. dial. 7.

o Lipſ. ibid.

p Festus vid. Panc. in not. orient. & occident imp. cap 32.

Percita

Percita ſuſpenſos portabat longa maniplos,
Unde maniplaris nomina miles habet.

* *Suidas* is plain, Βάνδον καλοῦσι Ῥωμαῖοι τὸ σημεῖον τὸ ἐν τῷ πολέμῳ that is, The *Romans* called their military enſigne a *Band*: hence other have uſed Βανδοφόρος to ſignify as much as *Signifer*, an *Ancient bearer*. * Suid. in voce Βάνδον.

CAP. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the ſiege of a town ſeemed difficult and hard to compaſſe, then did the Romans uſe certain means of policy for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampier fortified with many caſtles any fortreſſes; whereby they both kept the town from and forraign ſuccour, and withall ſecured themſelves from ſallies, and other ſtratagems. This rampier did extend it ſelf towards the walls of the city; ſo that by making (as it were) a great hill, they might overtop the city, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to ſupport the buildings to be erected upon it, they did caſt in much timber, & ſtones among the earth; and this heap of earth, ſtones and timber whence it was reared was properly called *Agger*, whence cometh both the Latine verb *Exaggerare*, and the Engliſh to *Exaggerate*, that is, to amplifie or encreaſe a matter. The ſtakes, poſts and trees which were rammed in about this bulwark, or rampier, to uphold the earth, were ſometimes called [q] *Cervi*, becauſe of their forked and ſharp tops, but more properly [r] *Valli*, and *Valla*. The diſtance or ſpace between each ſtake, was called *Intervallum*; though now *Intervallum* doth ſignify not only ſuch a diſtance, but any diſtance either of ſpace or time, as it appeareth [q] Lipſ. Poliorc. lib. 2. dial. 2. [r] Serv. Æneid. 1.

reth by that of *Tully*, *Inter vallo locorum, & temporum disjuncti*. Somtimes *Vallus* doth signifie a pole or stake, whereunto vines are tied; according to that received adage, which we use when a special friend forsaketh one *Vallus vitem decepit*. From the first signification it is that *Vallum* doth often signifie the inclosure, or hedging in of trees & stakes, wherewith the bulwark is upheld; alluding whereunto [t] *A. Gellius* translates ἥρκος ὀδυντων *Vallum dentium*. The means of their defence, whiles they were making this their rampire, was a certain engine or ordnance of war [u] made of planks and hurdles running upon wheels, under which they might rest secure from all stones and darts cast from the walls of the city: It was called *Vinea*. A second engine was *Musculus*. The matter whereof it was made I have not read; but the use of it was, that under it the souldiers might approach unto the walls of the city and undermine them. [x] Much [y] *Lipsius* seemeth to infer, when he rendreth the reason of the name [z] *Musculus idem dictus quia instar [illegible] sub eo terram*. A third means of their defence was *Militaris testudo*. This word *testudo* in the Art Military had a double acception, both being borrowed from the resemblance of the *Tortoise* shell, which is the true and genuine signification of this word. In the first acception *Testudo* [a] doth signifie a warlike engin or fence made with boards covered over with raw hides, which served against fire and stones cast at the souldiers, under this they might safely assail the wals. [b] In the second acception it signified a Target fence, which was a close holding together of targets over head like a vault or roof, wherewith the footmen did defend themselves from the thick shot of arrows, or slinging of stones. Their rampire or countermure being finished, they used certain great timber towers made upon wheels to run too and fro, which they called *Turres ambulatoriae*, moveable turrets. These towers had many stories one over the other, [c] wherein they carried ladders and casting bridges thereby to scale the wals.

[t] Cic. ep. fam. l. 1. ep. 7.

[t] A. Gel. Noc. Attic. l. 1. c. 16.

[u] Rosin. ant. Rom. lib. 10.

[x] Lips. Polior. lib. 1. dial. 9.

[y] Rosin. ant. R. l. 10. c. 16.

[z] Stad. in Flo. l. 4. c. 10.

[a] Rosin. ant. Rom. lib. 10. cap. 16.

wals. The engines hitherto have been defensive, such whereswith the *Romans* defended themselves in their siege; others there were offensive, wherewith they did assail the city; and of those the chief were *Balista sive Catapula, Scorpius sive Onager, Aries & Mulleoli.* The first of these engines as it was called *Balista* ἀπὸ τοῦ βάλλειν from darting or casting forth any thing, [b] so it was in old time called *Catapula* ἀπὸ τοῦ πελτῆς which signifieth a shaft or dart; though it cannot be denied, but that *Pelta* doth also signifie a kind of shield made in the form of an half-moon, according to that of *Virgil Æn. lib.* 1.

Ducit Amazonidum lunatis agmina peltis,
Penthesilea furens ——

The form therefore followeth, translated word for word out of [a] *Marcellinus*, [Between two planks there is set in firm; and fast joyned a strong and big iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lyeth forth farther out a four square beam, made hollow with a direct passage in manner of a narrow trough,] tied fast with many cords of sinews twisted one within the other, and thereunto are joyned two wooden skrews; near unto one of which standeth the cunning Balister, and subtilly putteth into the hollow passage of the beam a wooden shaft with a big head glewed fast to it. This done, on both sides two lusty young men do bend the engine by turning about certain wheels. When the top of the head is drawn to the uttermost end of the cords, the shaft being carried forth of the Balista, by the inward force thereof, it flyeth out of sight.] That the reader may receive the more light in the understanding of this obscure description, I have added the very words of *Marcellinus*; *Ferrum inter axiculos duos firmum compaginatur & vastum, in modo regulæ majoris extremum; cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet stylus extensius recto canalis angusti meatu cavatus, &*

Alm. Marc. l. 23. cap. 3.

hæc multiplici chorda nervorũ tortilium illigatus, eiq; cochlea duo lignea conjunguntur aptissime. quarũ prope unam adsistit artifex contemplabilis, & subtiliter adponit in temonis cavamine sagittam ligneam spiculo majore conglutinatam, hocq; facto hinc inde validi juvenes versant agiliter rotabilem flexũ. Quum ad extremitatem nervorum acumen venerit summum percita interna pulsu à balistæ ex oculis evolat: In respect of its use we may english it *a Cross-bow*: but it was much bigger & of a different form. The *Scorpion*, which now they call *Onager*, is described by *Marcellinus* in the same place thus. Two oaken or elm beams were hewn out, & somwhat bended so that they seem'd to bunch out in backs; & these in manner of a * saw engine are tied fast together, being bored through with wide holes, through which (by the means of those holes) strong cords are tied keeping in the whole frame that it start not a sunder: * From between those bunches another wooden beam reaching forth overthwart, & in a manner of a wain-beam erected up, is tied with such devises unto certain ropes, that it may be pulled up higher, or let down lower at ones pleasure; and at the top thereof certain iron hooks are fastned, from which hooks there hanged down a certain sling either of iron or tow: under which erected beam there lyeth a great piece of hair-cloth, full of small chaff, tied fast with cords, and placed upon a bank of turfs, or a heap of bricks: When therefore it cometh to the point of skirmish, a round stone being put into the sling four young men on one side loosing the beams, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the master of the engin standing in some high place giving a mighty stroke with a hammer (and as I suppose upon the cord, whereunto the erected beam was fastned with his hook) setteth open the rails that contain the whole work, insomuch that this erected beam being now at liberty with that quick stroke, and hitting against the soft hair-cloth, it hurleth out the stone, that

* *Machinæ Serratoriæ.*

* Ab hac medietate testium) *Here we must note that the signification of testes is borrowed from the* Anatomists *which we call certain eminent parts behind* φαλλιδοειδες Testes. Vid. Fuchs. instit. med. l. 1. Sec. 5.

that, will batter whatsoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is also called *Scorpio*, because when the long beam or tillar is erected, it hath a sharp top, in manner of a sting. The moderne time hath imposed unto it the name of *Onager*, that is, a wild Asse, because that wild Asses, when they are coursed by hunters, sling back stones with their heels a far off, so that oftentimes they pierce the breasts of them that follow them. The Latine word is made from the Greek ὄνος, that is, *Asinus, & ἀγρὸς, rus vel ager.* Now if any aske me, why that sackcloath, or allies was interposed the reason is rendred by *Marcellinus*, in two lines, which I purposely did not translate in their place, because I would continue the sence without such a long *parenthesis*. The reason is there delivered thus; because the violence and force of the erected beam recoiling after it had been by the stroke discharged, was such that it would shake in pieces the strongest wals except there were some soft thing interposed; whereby the forceible strength of the recoile might be by degrees slaked. The *Aries*, or Ram, is described also by *Marcellinus* in the same place. [The Ram was a great tree, or beam, *like unto a mast of a ship*, having a piece of iron, in manner of a Rams head, fastned at the end thereof, therewith they did demolish and batter down the wals of a City. It was hung unto a beam, which lay a cross over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoiled upon the walls.] The Rams which *Titus* used at the siege of *Hierusalem*, ran upon wheeles: which kinde of Rams are described by *Josephus*. There be, saith he, other manner of engines, as an iron Ram upon four wheeles bound with iron, and fastned with iron nailes, to this they make four feet answerable to the bigness of the beam, and every beam hath his several wheele, & when they will batter the wall, certain men first pulling it back, they recoile by the help of four wooden leavers put in the bin-

der part thereof for that purpoſe. The head of this Ram hath no horns, but is blunt made of the ſtrongeſt kinde of iron, with a wonderful thick neck. They have alſo of both ſides of the Ram a pentiſe of wood for the ſafegard of thoſe that recoile it. *Ioſephus Ben. Gorion de bello Iudaico.* In lieu of theſe Rams another engine was found out called *Helepolis, ab inuſitato ἕλω*, that is, *capio*, and πόλις, that is, *civitas*: The form of it is to be ſeen alſo in *Marcellibid* [There was (ſaith he) a *Teſtitudo*, or vaulted frame made, ſtrengthned with very long pieces of timber: it was covered over with Oxe hides, and green wicker hurdles, the upper part or convex ſurface thereof was overlaid with mud, to the end that it might keep off the fall of fire and caſting of weapons. Now there were faſtned in the front of it certain *Cuſpides triſulcæ*, that is, iron pikes with three edges, very maſſie, in manner of the thunderbolts, which Painters, and Poets, exhibit unto us. This great engine the Souldiers ruling within with divers wheels and ropes, with main force they thruſt it againſt the walls. [*Malleoli* (ſaith the ſame *Marcellinus*) were certain darts, faſhioned on this manner: there was an arrow made of a cane, betwixt the head & the neck whereof was faſtned an iron full of clefts; which arrow, like unto a womans diſh-ſtaffe, on which linnen is ſpinned, was finely made hollow within the bellow, yet open in many places: In the belly it received fire, with fuell to feed upon; and thus being gently diſcharged out of a weak bow (for with an over ſtrong ſhooting the fire was extinguiſhed) if it took faſt hold on any place, it burned the ſame; and water being caſt thereon the fire increaſed, neither was there any means to quench it, but by caſting duſt on it.] Now if they could not prevaile by theſe engines called *Machinæ*, then did they make certain paſſages under ground, which they called *Cuniculi*, from *Cuniculus*, ſignifying a cony-berry: inſomuch that theſe two phraſes are oppoſite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch, Ceſar non jam cuniculis, ſed*

d Plutarch in vit. C. Cæſ.

ſed machinis tollit rempublicam, that is, he He doth not now covertly, but with open violence aſſault the common weale.

Cap. 4.

De Pœnis in Hoſtes devictos.

Albeit, after the victory, the *Romans* inflicted divers degrees of puniſhment, according to the malice found in an enemy, yet were they always compaſſionate, and (as hiſtories teſtifie) more exorable then any other nation. The puniſhments which we finde them to have uſed towards a conquered nation are theſe: Either they puniſhed them by death, or ſold them *ſub corona*, or diſmiſſed them *ſub jugum*, or mercied them in taking [illegible] territories; or made them tributary States. *e* A [illegible] was ſaid to be ſold *ſub corona*, when he being placed in the market-place, a crowne was put upon his head in token of ſuch a ſale: or therefore certain captives were ſaid to be ſold *ſub corona*, becauſe at ſuch times they were environed about with ſouldiers, to keep them together, and this circle of ſouldiers, as likewiſe all other companies is called *Corona*. When they diſmiſſed any *ſub jugum*, *f* they erected two ſpears, with a third lying a croſs, in manner of a gallowes: then they cauſed them being diſarmed, and their belt taken away, to paſs under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten ſouldiers, in way of remuneration for their faithful ſervice. This tranſplantation was termed *Colonia deductio*, and the place ever after *Romana colonia*, that is, a *Roman* Colony: at which times they choſe out every tenth man, *viz.* ſuch as were able, and of beſt ſufficiency, to make and eſtabliſh a publick councell, *g* whom they named *Decuriones*. Whence we may obſerve, that *Decurio* is not alwaies taken for a Captain over ten horſemen, but ſomtimes it is uſed to

e A. Gell. l. cap. 4.

f Stad in Flor. lib. 1. c. 12.

g Sig. de jur. Ital. l. 2. cap. 4.

signify an Alderman, or chief Burgess in a *Roman* Colony. These Colonies were of two sorts, some called *Colonia Latina*; others *Italica*. The Latin Colonies had *Jus civitatis suffragii, & Magistratuum capiendi si in sua Colonia magistratum gessissent. Italicis autem, Jus civitatis & suffragii nullum erat, onerum tamen erant, nec tributum aut stipendium pendebant, ut provinciæ solebant. Turneb. adverss. l. 1. c. 11.* Divers times the *Romans* would be content after the conquest to grant to their enemies a peaceable injoying of their lands & possessions, conditionally that they would yield all faithful allegiance unto the L. Deputy, whosoever the *Senate* of *Rome* should place over them. The L. Deputy was either stiled by the name of a *Prætor*, a *Proconsul*, or a *Præfectus*. Those places where the two first sorts of governours did rule, were termed *Provinciæ*, the other from the governour was termed *Præfecturæ*. Here we must observe, that this word *Provincia* hath a threefold acception. First it is taken for a country, which by the force & power of arms, is subdued to the Roman Empire, & governed by some Roman Deputy sent from the Senate; & this is the proper & primitive signification thereof, it being so called, *h Quòd populus Rom. eam provicit, id est, ante vicit.* Secondly, it is taken for any region or country, where the L. Gen. or chief Captain over a *Roman* Army doth mannage war against any nation by commission from the *Senate*. Lastly, it signifieth any publick function, or administration of office, yea any private duty, charge, or task, either undertaken or imposed; according to that of *i Terence, Provinciam cepisti duram*, that is, thou hast undertaken an hard task. Now the tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum, vel Stipendium*; and those who paid it were termed *Tributarii sive Stipendiarii*. and this Tribute was of two sorts; either ordinary, such as was required from every house yearly, even in the time of peace; or extraordinary, such as was levyed by a law, or decree of the *Senate* towards unexpected

h Pigh. lib. Tyrannit.

i Terent. in Phor.

pected charges. The uncertain tribute *k* properly called *Vectigal*, was either impost-mony, such as was collected in haven towns for the transportation of Merchants wares, and that was called from *Portus*, *Portorium*, or from *Porta*, *Portarium*, and the receivers thereof *Portitores*. The wares after the impost-mony had been paid were sealed by the *Publicans*, with a certain kinde of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta, orat. pro Flacco:* or tythe corn, namely the tenth part of their grain; and that was called from *Decem*, *Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid. lib. 1. de Trist.*

Qui venit hic fluctus fluctus superemines omnes,
Posterior nono est, undecimoq; prior.

The reason of this signification is *m* supposed to be, because in *Arithmetick*, amongst simple numbers the tenth is the greatest: or lastly, that mony which was paid by certaine heards-men for pasturing their cattle in the *Roman fields* & forrests: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n Festus* saith) the Bayliff or receiver of this mony, called *Pecuarius*, did *Scribendo conficere rationes*, that is keep his account by writing. Where we must note, first, that all these kindes of Tributes were not only required in Provinces, or Countries subdued, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a generall name they were all called *o Publicani*, in as much as they did take to rent these publick tributes. The chief of them, which entred into bond, as the principall takers or farmers of these tributes, *Tully* calleth *Manipes*. The others, which were entred into the same bond as sureties were termed *Praedes*. Many times the *Romans* did bestow the freedom of their city upon forreign countries; & the degrees of freedom were proportioned accordingly

k Sig. de jur. Rom. l. 1. c. 16. Sardius in Flor. l. 1. c. 13.

m Fr. Sylv. in viror. illustr. op. 2. lib. 1.

n Sig. de jure Rom. l. 1. c. 4.

o Cic. de Arusp. respons. & alias saepe.

as the countries were. Some they honoured with the name of *Roman* citizens, but excluded them from the right of ſuffraging, leaving them alſo to be governed by their own laws and magiſtrates. This ſtate they called a *Municipall* ſtate, in Latine *Municipium*, becauſe they were *Muneris hujus honorarii participes*. p By *Munus honorarium* in this place, is underſtood nothing but the bare title of a *Roman* Citizen, whereby they were priviledged to fight in a legion as free Deniſons, not in an auxiliary band, as the aſſociats. Now the firſt that ever obtained this Municipall ſtate, where the *Cerites*, who for preſerving the holy things of *Rome* in the time of the war againſt the *Gaules*, were rewarded with the freedom of the city, but without power of ſuffraging, q From whence it is, that thoſe tables wherein the *Cenſors* inrolled ſuch as were by them deprived of their voices, were called *Cerites tabulæ*; *Horace* calleth ſuch a table *Ceritem ceram*, for the reaſon ſhewn before. But we muſt withal obſerve, that ſome Municipal towns have either by deſert or inſtant ſuit obtained the liberty of ſuffraging alſo, which occaſioneth that received diſtinction, that there was *Municipium ſine ſuffragio*, & *Municipium cum ſuffragio*. Other countries which could not be admitted into the freedome of the City, have obtained, and that not without ſpeciall & deſerved reſpects, to be aſſociates and confederates unto the ſtate of *Rome*. The inhabitants of ſuch countries were ſometimes called *Socii*, ſometimes *Amici*, ſometimes *Latini nominis ſocii*, &c. The King or Prince of ſuch a country did ſtyle himſelf *Amicus & Socius Senat. & Pop. Rom.* Here we muſt obſerve a difference between *Pactio* and *Fœdus*, both ſignifying a kinde of league. That truce which in time of war is concluded upon, and accepted of both ſides for a certain r limited ſpace of time is properly called *Pactio*; we commonly call it *Inducia*. & it differed from *Fœdus*: f Firſt becauſe that *Fœdus* is a perpetual truce or league. Secondly becauſe it was neceſſary that one of thoſe Heralds at arms called *Fœciales*, ſhould by

p A Gel. noct. Attic. lib. 16 cap. 13.

q A. Gel. ib.

r Sig. de jure Ital. l. 1. c. 1.

f Sigon. ib.

a

a ſolemn proclamation confirm this league called *Fœdus*, neither of which conditions was abſolutely requiſite in their truce termed *Pactio.*

Cap. 5.

Mulctæ militares, quibus milites Romani ob delicta afficiebantur.

TOuching the puniſhments that the *Roman* L. Generall uſed towards his own ſouldiers, when they were faulty, they were commonly proportioned unto the fault committed: Sometimes they were eaſy, of which ſort were alſo thoſe puniſhments which did only brand the ſouldiers with diſgrace: other times they were heavier, ſuch as did hurt and afflict the body. To the firſt ſort belonged theſe: Firſt, *Ignominioſa dimiſſio*, that is, a ſhameful diſcharging of a ſouldier, when he is with diſgrace removed from the army. Secondly, *Fraudatio ſtipendii*, that is, a ſtopping of their pay: & ſuch ſouldiers which ſuffered this kinde of mulct, were ſaid to be *ære diruti*, ſ becauſe *Æs illud diruebantur in fiſcum, non in militis ſacculum.* Thirdly, *Cenſeo haſtaria*, whereby the ſouldier was injoyned to reſigne and give up his ſpear: for as thoſe which had atchieved any noble act, were for their greater honour *Haſtâ purâ donati*, ſo others for their greater diſgrace were forced to reſign up their ſpear. Fourthly, the whole *Cohors*, which hath loſt their banners, were compelled to eat nothing but barly bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his ſouldiers belt or girdle taken from him, which was no leſs diſgrace amongſt them, then it is now amongſt us, that a Knight of our order of the Garter, ſhould be deprived of his Garter. Fifthly, for petty faults they made them ſtand bare-footed before the L. Gen. his pavilion, with long poles of ten foot length in their hands: and ſomtimes in the ſight of the other ſouldiers

ſ Roſin. ant. lib. 10. c. 25.

souldiers to walk up and down with turfes on their necks. In the last of these they seemed to imitate their city discipline, whereby malefactors were injoyned to take a certain beam, resembling a fork, upon their shoulder, and so to carry it round about the town: it hath some affinity with our carting of queans here in England: In the first we have no custom that doth more symbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein, or leting them bloud in one of their armes: *t* which kinde of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous & bold. The heavier kinds of punishment were these; first, *Virgis, vel fuste cædi*, to be beaten with rods; or with staves & cudgels. None were ordinarily beaten with cudgels but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appointed to keep watch; or those who had stollen any thing from out the camp; or born false witness against their fellows, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those which were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetuall exilement. The ceremony used in this kind of cudgelling was, that the *u* knight Martial should lightly touch the party to be punished with a club, which being done all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in *x Tully* his phrase *Fustuarium meritur. Polybius* calleth it; ὑλοκοπίαν. *Vid. Lips. de milit. Rom. lib. 5. dial* 18. If a *Roman* souldier had broken his rank by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the knight Martiall upon just occasion would cause them to be sold for bond-slaves, to be beheaded, to be hanged. All these punishments were

t Alex. Gen. dier. 2 c. 13.

u Trib. milit.

x Cic. orat. Phil. 2.

were personal or particular: there remaineth one which was generall, namely when the fault was generall, as in their uproares, conspiracies, &c. Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kinde of cudgelling above spoken of; all the others escaped either without punishment or with very little. The punishment it selfe was termed *Decimatio legionis*, and the reason of this kinde of punishment is rendred by *y Tully*; *ut metus, viz: ad omnes, pœna ad paucos perveniret.* Sometimes such was the clemency of the L. Generall, that he would punish only the twentieth, nay the hundreth man, and then was it called *vicesimatio, vel centesimatio legionis.*

y Cic. pro Cluent.

Cap. 6.

De donis militaribus ob rem fortiter gestam.

COncerning the rewards which were bestowed in war, some were by the Senate conferred upon the L. Generall: others were by the L. Generall conferred upon his souldiers. Those honours which the L. Generall received were three. First, *Nomen imperatoris*, of which before. Secondly, *supplicatio*, that is, a solemne procession continued for many daies together, sometimes more, sometimes fewer: all which daies the *Roman* people did observe as holy-daies, offring up daily prayers & sacrifices to the Gods in the behalfe of their L. Gen. The custome being, that after some notable victory, the souldiers having saluted their chief captaine (whom I call their L. Generall) by the name of *Imperator*, then would he send letters unto the Senate, dight with Lawrell, wherein he required both that name to be confirmed, & approved by them, as likewise that they would *Decernere supplicationes*, that is, appoint such solemne supplications. Thirdly, they honoured him at his coming home also with a triumph: *Triumphus vel major, vel minor erat*, saith

Alexander. The leſſer kind of triumph was properly called *Ovatio, ab ove,* from a ſheep, which in this time of his triumph was led before him, and afterward ſacrificed by him, as alſo in the greater triumph (called properly *Triumphus*) the L. Generall ſacrificed a Bull: it differeth from the greater triumph, firſt in the acclamation, for in the leſſer triumph the ſouldiers following did as it were redouble this letter O, & ſome are of opinion that it was therefore called *Ovatio* In the greater triumph the ſouldiers followed, crying, *Io triumphe, Io triumphe*: an example whereof may be ſeen in *a Horace,* where he deſcribeth the triumph of *Bacchus,* the firſt author of this greater triumph; from whoſe *b* name alſo divers Authors do derive this word *Triumphus,* he being in Greek called Θριαμβος, which by a little change is made *Triumphus.* Secondly they differed, becauſe in the greater Triumph, the L. Gen. did weare a garment of State, called by ſome *Trabea, c* by others *Triumphalis, Picta vel Aurata veſtis;* likewiſe a garland of lawrell, riding in a chariot, the *Senators* themſelves, with the beſt of the *Romans,* meeting him, his ſouldiers with their coronets, their chaines, & other rewards, following after: But in the leſſer triumph the L. Generall did weare a plain purple gown, without any gold imbroadering, and a garland of mirtel tree, *d* commonly going on foot, ſomtimes permitted to ride on a horſe; the gentlemen and commonalty of *Rome* alone, without the *Senators,* did meet him. Moreover, for a perpetuall memory of this their triumph, in ſome publike place certaine trophies were erected. *e Tropheum monumentum dixere, nunc marmoreum, modoæneum, cum inſcriptione & titulis ævo perpetuo duraturis.* *f Dictum eſt* ἀπὸ τῆ πέμπειν, *id eſt,* à converſione, from making the enemies to retire and turne back. Sometimes there were ſtatues, columnes, & arches, built in token of triumph. Theſe arches, though commonly they were known by the name of *Arcus triumphales,* yet ſometimes they are called *Fornices,* whence it is that *Tully* calleth *Fabians* triumphall arch

2 Salmuth. in Pancir. l. rerum deperd. c. de triumph.

a Ode. 2. l. 4.

b Salmuth. in Pancir. l. rerum deperd. cap. de triumph.

c Alex. Gen. dier. l. 6. c. 17

d Dion. Hal. lib 5.

Alex. Gen. dier. l. 1. c. 22.

f Serv. Æneid. lib. 10.

g Fr. Sylv. in orat. Cic. pro Cn. Plancio.

arch *Fabianum fornicem*. If it ſo hapned, that the *Roman* Generall himſelfe, perſonally, did take away any ſpoiles from the chiefe captain of the enemies, then did he hang them up in a temple conſecrated to *Iupiter Feretrius*; who was ſo called *h* becauſe, as the *Romans* conceited, without the ſpeciall aſſiſtance of *Iupiter*, *Dux ducem ferire non poterat*: theſe ſpoiles had the name of *Optima ſpolia*, that is, Royall ſpoiles. The rewards beſtowed upon the ſouldiers were divers: either places of offices, as the place of a Centurion, of a *Prefectus*, a *Decurio &c.* or their pay was increaſed, the ſpoiles diſtributed amongſt them: or laſtly, they received certaine gifts, termed *Dona militaria*. In ancient times thoſe ſouldiers which had beſt deſerved, received a certaine meaſure of corne, called by them *Adorea*, *i* and hence it is, that *Adorea* is now uſed to ſignifie ſuch land and praiſe as is due unto a ſouldier. But after ages, for the better encouraging of the ſouldiers, have found out more honourable rewards, of which *k* theſe were the chiefeſt; *Armilla*, that is, a bracelet for the hand wreſt; *Torquis*, a chaine to weare about their neck; *Phaleræ*, horſe trappings; *Haſta pura*, that is, a ſpeare, having no iron at the end of it, (it is ſometimes called *l Haſta donatica*, and *Haſta graminea*,) Laſtly, *Corona*, crownes, of which *Aul. Gel lib. 5. cap. 6.* obſerveth theſe to have been the chief: 1. *Corona triumphalis*, which in old time was made of Lawrell, but afterward of Gold, and thence was it called *Corona aurea*: it was ſent by the *Senate* unto the L. Generall, in honnour of his triumph; Secondly, *Corona obſidionalis*, which was given by the ſouldiers unto the Generall when they were freed from a ſiege; it was made of graſſe growing in that place where they were beſieged, whence it had the name alſo of *Corona graminea*. Now the reaſon why they made this crowne of graſſe growing in the place where they were beſieged, was thereby to yeeld up their right in that place unto their Captain: for by that ceremony, as *m Pliny* obſerveth, they did *Terrâ & ipsâ altrice humo & humatione etiam*

h Alex. Gen. dier. l. 1. c. 24.

i Alex. Gen. d. l. c. 18.

k Sig. de. jure Rom. c. 15.

l Roſin. ant. lib. 10. c. 27.

m Plin. l. 8. cap. 4.

etiam cedere. And hence it is, that in races, & the like masteries he that was overcome, did gather some of the grasse of that place, & gave it unto the conquerour, as a token that he did acknowledge himselfe conquered; *n* this is the reason of that Adage, *Herbam dare*, that is, to yeeld the victory. Thirdly, *Corona civica*, which was bestowed only upon him, which had saved a citizens life, *o* though in processe of time it was also bestowed upon the L. Gen. if he spared a Roman citizen, when he had power to kill him: It was commonly made of oake; whence it was called *Corona quercea.* And this I take to be the reason why in *Ovids* time the Emperour had awlaies standing before his gates, an oak tree, in the midst of two lawrels, as an Emblem denoting two worthy vertues required in all Emperors & Princes: first such whereby the enemie might be conquered: secondly, such wherby citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the lawrell tree,

n Salmuth. in Pancer. Iterum deperd. cap. de coronis.

o Pigh. l. Tyrannis.

p Ovid. Met. lib. Fab. 9.

p *Postibus Augusti eadem fidissima custos*
Ante foris stabis, mediamq; tuebere quercum.

q Dion. Hal. lib. 10.

Fourthly, *Corona Muralis*: *q* He only was honoured with this which did first scale the walls & enter first into the enemies city: and hence this crown was put upon the circlet, or top, like unto the battelmens. Fifthly, *Corona Castrensis.* This the L. Gen. bestowed on him which first entred into the enemies tents: it did beare in it the resamblance of a bulwark, or at least of the mound, wherwith the bulwark was strengthned: which mound was called in Latine *Vallum*, and thence the crown it selfe was often called *Vallaris corona.* Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon sea: it was portrayed with many ship beakes called in Latin *Rostra*, *r* whence the crowne it selfe was often called *Corona Rostrata.* That Roman *Hercules Siccius Dentatus* obtained almost all those severall rewards, and that each many times. Lastly *Corona ovalis*, it was made of Mirtle-tree, the L. Generall

r Pigh. l. Tyrannis.

s A. Gel. noct. Attic. l. 5. c. 6.

nerall uſed it in the leſſer kinde of triumphs, called *Ovationes*, from whence the Coronet it ſelfe was named *Ovalis*. It was then beſtowed, when the Herald had committed ſome errour in denouncing war; or when the enemies conquered were of meane rank and place, as Servants, or Pyrats; or elſe if the victory were gotten without bloodſhed, or great hazard, the enemies yeelding without reſiſtance. *In quibus impulvereis & incruentis victoriis, aptam eſſe Veneris frondem crediderunt, quod non Martius, ſed quaſi Venereus quidam triumphus foret.*

FINIS.

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